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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Fifty-fifth year

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the seventh annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of its Statute (see S/25704 and Corr.1, annex), which states:

> "The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly."

* A/55/150.
** The present report covers the period 1 August 1999-31 July 2000.

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Letter of transmittal

26 July 2000

Excellencies,

I have the honour to submit the seventh annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 26 July 2000, to the Security Council and the General Assembly, pursuant to article 34 of the Statute of the Tribunal.

Accept, Excellencies, the renewed assurances of my highest consideration.

(*Signed*) Claude **Jorda**
President

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Seventh annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The seventh annual report of the International Tribunal for the Former Yugoslavia covers the activity of the Tribunal for the period from 1 August 1999 to 31 July 2000. During this time, the Tribunal profited from the experience gleaned from the first six years of its existence and firmly established itself as a fully operational international criminal court whose work has increased significantly.

However, the Tribunal is still faced with difficulties, related primarily to the number of accused who remain at large, some of whom are high-ranking, and also to the need to find new resources permitting all the accused to be tried within a reasonable time-frame taking into account the number of ongoing and future cases.

On 16 November 1999, Judge Claude Jorda (France) succeeded Judge Gabrielle McDonald (United States of America) as President of the Tribunal and on 15 September 1999 Mrs. Carla Del Ponte (Switzerland) replaced Mrs. Louise Arbour (Canada) as Prosecutor of the Tribunal. Three judges left the Tribunal during the year: Judge McDonald (United States of America), Judge Cassese (Italy) and Judge Wang (China). They were replaced by Judges Wald (United States of America), Pocar (Italy) and Liu (China).

The Trial Chambers rendered many decisions, including three final judgements. The Appeals Chamber rendered various judgements further to interlocutory appeals and two judgements further to appeals against final judgements. Four trials are currently ongoing and each of the three Trial Chambers is seized of four cases in active pre-trial preparation. Accordingly, the courtrooms are running at almost full capacity.

In August 1999, following an internal reorganization of the Registry, the Bureau decided to create a new Chambers Legal Support Service to address the increased workload.

During the year, six indictments were confirmed, two of which were new (7 October 1999 and 8 March 2000) and four amended (30 August, 27 October, 1 December and 17 December 1999).

During the same period, 13 accused were transferred to the United Nations Detention Unit in The Hague, 10 of whom were apprehended by Stabilization Force (SFOR) forces, two transferred from Croatia and one arrested by the Austrian authorities in Vienna. As a result, four sealed indictments were made public. For the first time, three accused were provisionally released pending the commencement of their trials, whose dates cannot yet be set.

Although imperfect and still very problematic, the cooperation between States and the Tribunal improved greatly over the past year. There was a significant upturn in this respect in the Republic of Croatia and, to a lesser extent, within the Serbian entity of Bosnia and Herzegovina.

Throughout the year, the Office of the Prosecutor continued its many investigations at an unprecedented pace, especially in Kosovo where 3,066 witnesses were interviewed between June 1999 and February 2000. To accomplish this task, temporary operational bases were set up at Tirana in Albania, Pristina in Kosovo and Skopje in the former Yugoslav Republic of Macedonia. Twenty-four search warrants were executed leading to the seizure of documents and arms.

Many allegations of violations of international humanitarian law by the North Atlantic Treaty Organization (NATO) forces during the bombings of the Federal Republic of Yugoslavia were transmitted to the Prosecutor. In view of the Tribunal's jurisdiction over all war crimes committed in the territory of the former Yugoslavia, the Prosecutor considered herself duty-bound as an independent Prosecutor to assess these allegations. In June, on the basis of a report compiled within her Office by a working group, she concluded that there were no grounds to open an investigation into this matter.

During the period under review, the Prosecutor made public her future penal policy. Should there be no further conflict, 36 investigations will have to be completed before she can report to the Security Council that the investigations side of her mandate has been brought to a close. Of these investigations, 24 have begun and 12 others have yet to be opened. The Prosecutor anticipates that by the end of 2004, all these investigations will have permitted a decision to be made on whether one or more indictments are justified.

The Registry of the Tribunal continued to carry out its duties in respect of the judicial management and administration of the Tribunal. Moreover, it took the responsibility for keeping the media and the public informed, supervising the Outreach Programme which targets the peoples of the former Yugoslavia, ensuring the well-being of the victims and support of witness-related activities, managing the legal aid scheme relating to the assignment of defence counsel, supervising the Detention Unit and maintaining diplomatic contacts as regards the negotiation of agreements on cooperation with the Tribunal.

On 23 December 1999, the General Assembly adopted resolution 54/239 in which it authorized the appropriation of $95,942,600 (net) to cover the Tribunal's budget for the period from 1 January to 31 December 2000, that is, a 1.95 per cent increase over the previous year's budget.

During the reporting period, two new enforcement-of-sentence agreements were signed with France and Spain. The Tribunal also received several donations in kind as well as financial assistance to a value of $12.7 million and pledges for a further $2.4 million. The Tribunal has also continued to enjoy the services of type II gratis personnel.

The judges of the Tribunal met in plenary from 15 to 17 November 1999 (twenty-first session), at which three new rules were adopted and 28 others amended. These changes entered into force on 7 December 1999. On 13 and 14 July 2000, the judges again met in plenary (twenty-second session), during which they modified six rules. These rules entered into force on 2 August 2000. Two practice directions on the filing of written submissions in appeal and the amendment of the Registrar's rules were also published.

Two new working groups were created during the period under review. In September 1999, Judge McDonald instituted a multidisciplinary judicial practices

group, which includes representatives of the Prosecutor, the Registry and defence counsel. In November 1999, Judge Jorda created an Appeals Chamber Working Group to increase the productivity and effectiveness of the Chamber.

The Expert Group mandated to evaluate the functioning of the Tribunal continued its work and submitted its final report on 11 November 1999 (A/54/634, S/2000/597). President Jorda gave the Judicial Practices Working Group responsibility for reviewing the report, which gave rise to much discussion. On 31 March 2000, the President transmitted to the Secretary-General the response to the report, prepared collectively by the Chambers, the Prosecution and the Registry (A/54/850). Nearly all the recommendations contained in the Expert Group report were applied or are about to be implemented with the exception of the recommendations involving amendments to the Statute of the Tribunal.

In November 1999, the new President, the judges, the Registrar and the Chambers Legal Support Service began to consider ways to permit the Tribunal to accomplish its mission more effectively and to deal with its greatly increased workload. They concluded that the work of the Tribunal, as it currently stands and taking into account the Prosecutor's penal policy, could go on until 2016 if no change were to be made. In April 2000, at an extraordinary plenary focusing on the matter, they also considered several solutions, including holding some trials elsewhere, having recourse to single-judge Chambers and creating an additional Chamber. In the end, the judges advocated a more flexible two-tier solution which would accelerate pre-trial case management through increased utilization of senior legal officers from Chambers and increase the Tribunal's trial capacity through the setting up of a pool of *ad litem* judges. This system should allow all the accused to be tried without undue delay and the Tribunal to accomplish its mission by about year 2007.

The judges are of the view that the Tribunal has reached a turning point in its history and that its credibility and the international support it enjoys are at stake. They also believe that the prompt return to a lasting, deep-rooted peace in the Balkans is linked to the accomplishment of the Tribunal's mission within a reasonable time-frame.

Both the forward study and the conclusion of the judges were put into a report first submitted to the Secretary-General and then presented by the President to the Security Council on 20 June 2000 (see A/55/382-S/2000/865). The Security Council chose to remain seized of the matter and to set up a working group which should present its conclusions in autumn.

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I. Introduction

1. The present seventh annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 covers the period from 1 August 1999 to 31 July 2000 and describes in detail the Tribunal's activities during that period.

2. During the period under review, the work of the Tribunal increased significantly. Thirteen indicted persons were arrested in a single year, bringing to 37 the total number of those detained at the United Nations Detention Unit. The Trial Chambers gave three judgements and dozens of decisions. The Appeals Chamber gave two judgements on the merits and 15 interlocutory decisions.

3. This success is the result of the increasing cooperation of all States which, through the North Atlantic Treaty Organization (NATO), and, more specifically, the Stabilization Force (SFOR) and the Kosovo Force (KFOR), are collaborating more closely in the arrest of those accused and in the collection of evidence. It is also the product of cooperation by the States of the Balkans, principally the authorities of the Republic of Bosnia and Herzegovina and, more recently, those of the Republic of Croatia.

4. Nevertheless, the Tribunal continues to face two major obstacles which must be overcome if it is to accomplish its justice and peace missions.

5. The first problem, already discussed in the earlier reports, is that several accused, important military officers or high-ranking officials, are still at large. Some of them even hold public office with complete impunity. Mr. Milošević and Mr. Ojdanić are still in power in the Federal Republic of Yugoslavia, whose authorities refuse to recognize the Tribunal's jurisdiction. Mr. Karadžić and Mr. Mladić have still not been apprehended even though they were indicted five years ago.

6. Through the offices which they held or which they continue to hold, these accused, political and military leaders, more than anyone else, may truly pose a danger to international public order and jeopardize the peace and security of which the Tribunal is one of the main guarantors.

7. The second problem, which is the result of the increase in its workload, is that the Tribunal must find new ways of working that will enable it to try all the accused within a reasonable time-frame. If it does not reform its mode of operation, it will be unable to ensure prompt and effective management of all the cases for which it is responsible. Thirteen cases relating to 25 accused are currently on the dockets of the Trial Chambers. Nine of them are at the pre-trial phase and four are being tried. Twelve accused are appealing. In addition, the Prosecutor has announced that she intends to open 36 new investigations relating to 150 suspects.

8. In order to improve the organization and results of their work, the judges, the Prosecutor and the Registrar worked closely with the Expert Group mandated by the United Nations to evaluate the functioning of the Tribunal. They considered the 46 recommendations in the final report of the Expert Group (see A/54/634) in detail.

9. With the recommendations in mind, the President set up two working groups, one concerned with judicial practices and the other with the Appeals Chamber.

10. Lastly, and still in order to enable the Tribunal better to accomplish its mission, with the support of the judges, the President initiated a general process of reflection on ways to try all current and future detainees within a reasonable time-frame. The conclusions of the study appear in a report which was sent to the Secretary-General of the United Nations on 12 May 2000. In the report, the judges considered several solutions and analysed their respective advantages and disadvantages. They have chosen to support the adoption of a flexible solution which would make it possible to accelerate the trials without disrupting the procedural system now in place or infringing the rights of the accused. This means both accelerating the pre-trial management of the cases through increased recourse to the Tribunal's legal officers and increasing the Tribunal's capacity to hold trials by having the Member States make available a pool of *ad litem* judges. These judges would be called upon to hear specific cases according to the Tribunal's future needs.

11. The judges consider that adopting this system, that is, a combination of both the proposed measures, should make it considerably easier for the Tribunal to decide the cases and to fulfil its mission in 2007 rather than in 2016.

12. On 20 May 2000, the President officially presented the report to the Security Council, which in turn decided to take the matter up and establish a

working group with the task of examining the report's proposals in collaboration with the Tribunal. At their first meeting, the members of the group agreed to report on the conclusions of their study in late September or early October 2000.

II. The Chambers

A. Composition of the Chambers

13. Three judges left the Tribunal during the reporting period (Gabrielle Kirk McDonald on 17 November 1999, Antonio Cassese on 17 February 2000 and Wang Tieya on 31 March 2000). They were replaced by three new judges appointed by the Secretary-General of the United Nations and are now full participants in the work of the Chambers. The three Trial Chambers and the Appeals Chamber are composed of 14 independent judges from various States. For Trial Chamber I these are Almiro Simões Rodrigues (Presiding, Portugal), Fouad Abdel-Moneim Riad (Egypt) and Patricia Wald (United States of America); for Trial Chamber II, David Anthony Hunt (Presiding, Australia), Florence Ndepele Mwachande Mumba (Zambia) and Liu Daqun (China); for Trial Chamber III, Richard George May (Presiding, United Kingdom of Great Britain and Northern Ireland), Mohamed Bennouna (Morocco) and Patrick Lipton Robinson (Jamaica). The Appeals Chamber is composed of Claude Jorda (Presiding, France), Lal Chand Vohrah (Malaysia), Mohamed Shahabuddeen (Guyana), Rafael Nieto-Navia (Colombia) and Fausto Pocar (Italy).

B. Main activities of the Chambers

14. The judicial activity of the Chambers of the Tribunal comprises trials, appellate proceedings (appeals, interlocutory appeals and State requests for review), proceedings pertaining to the exercise of the primacy of the Tribunal (rules 7 *bis*, 9, 10, 11 and 13 of the Rules of Procedure and Evidence) as well as contempt proceedings pursuant to rule 77.

15. During the period under consideration, no rule 61 hearings were held. Following the amendment of rule 40 *bis* of the rules, which now allows a judge to authorize the provisional release of an accused without there being exceptional circumstances, Trial Chamber III authorized for the first time the provisional release of three accused in the *Simić et al.* case.

16. The cases currently before the three Trial Chambers are as follows:

Trial Chamber I	*Trial Chamber II*	*Trial Chamber III*
Kvočka et al.	*Kunarac et al.*	*Kordić and Čerkez*
Krstić	*Krnojelac*	*Simić et al.*
Naletilić and Martinović	*Brđanin and Talić*	*Kolundžija*
Galić	*Vasiljević*	*Krajišnik*
Blaškić	*Nikolić*	

17. At the start of the reporting period, the *Kvočka et al.* case was before Trial Chamber II. On 3 February 2000, the case was transferred to Trial Chamber I.

18. The following are the cases before the Appeals Chamber since the last annual report:

	Appeals Chamber	
Cases	*Interlocutory appeals*	*Appeals on the merits*
Tadić	1	2
Aleksovski	1	2
Delalić et al.	1	4[a]
Furundžija	-	1[a]
Jelisić	-	2[a]
Kupreškić	4	6[a]
Blaškić	-	1[a]
Simić	4	-
Kordić	5	-
Brđanin	4	-
Kunarac	1	-
Total	**21**[b]	**18**

[a] Ongoing appeals.

[b] This figure of 21 interlocutory appeals includes 14 new interlocutory appeals, 3 pending appeals lodged during the last reporting period, 2 appeals lodged on the basis of rule 77 of the Rules and two leaves for appeal.

19. During the reporting period, the judges were confronted with the problems resulting from the Tribunal's significantly increased workload and with its consequences for the length of the proceedings and, in particular, for pre-trial detention. As a result, the judges have sought to maximize those resources available to them in dealing with these difficulties. They have, for instance, prepared the cases more

thoroughly at the pre-trial phase so as to be in a position to hold fair and expeditious trials. From this perspective also, they have reflected in more general terms on the ways to try all present and future detainees within a reasonable time-frame without, of course, infringing the exemplary and "qualitative" nature of the proceedings and judgements.

1. Cases

(a) *Blaškić*

20. The trial of General Tihomir Blaškić ended on 30 July 1999 and deliberations then began. The Trial Chamber I Judges (Judge Jorda presiding, Judges Shahabuddeen and Rodrigues) then began to review all the materials of the case, that is, more than 25,000 pages of hearing transcripts (for the English version)[1] and over 1,300 exhibits. The judgement was rendered on 3 March 2000. The Trial Chamber found the accused guilty of all the counts[2] against him for serious breaches of the Geneva Conventions, war crimes and crimes against humanity, including the crime of persecution, and handed down a single sentence of 45 years in prison. The sentence is the longest pronounced by the Tribunal to date. The accused appealed against the sentence on 17 March 2000.

(b) *Jelisić*

21. In December 1999, Trial Chamber I (then composed of Judge Jorda presiding, Judges Riad and Rodrigues) completed the trial of Goran Jelisić, who was prosecuted for genocide, crimes against humanity and war crimes. The accused had pleaded guilty to war crimes and crimes against humanity, but not guilty to the count of genocide. After the Prosecutor had completed her case on 22 September 1999, for the first time in the history of the Tribunal, the Trial Chamber decided to apply rule 98 *ter* of the Rules of Procedure and Evidence, which allows a Trial Chamber to pronounce an acquittal *proprio motu* should it consider it once the prosecution case has been completed that the evidence does not justify a conviction. The Trial Chamber orally acquitted Goran Jelisić of the count of genocide on 19 October 1999 because the *mens rea* required for constitution of the offence had not been proved. The Prosecutor appealed the decision on 21 October 1999. On 14 December 1999, the Trial Chamber rendered its reasoned written judgement on all the crimes ascribed to the accused. Goran Jelisić was sentenced to 40 years in prison for war crimes and crimes against humanity. He appealed against the judgement on 15 December 1999.

(c) *Krstić*

22. General Radislav Krstić was transferred to the United Nations Detention Unit at The Hague on 3 December 1998. His initial appearance, during which he pleaded not guilty to all the counts brought against him for genocide (or, in the alternative, complicity to commit genocide), crimes against humanity and war crimes before Trial Chamber I (Judge Jorda presiding, Judges Riad and Rodrigues) was held on 7 December 1998.

23. Further to defence motions and discussions conducted under the auspices of the Trial Chamber, an amended indictment was filed on 27 October 1999.

24. After Judge Claude Jorda was elected President of the Tribunal, the composition of the Chamber was modified (Judge Rodrigues presiding, Judges Riad and Wald) on 24 November 1999, and on 25 November 1999, a further initial appearance of the accused was held, at which he once again pleaded not guilty.

25. On 28 December 1999, the defence filed a new motion alleging defects in certain paragraphs of the indictment, pointing out that the acts covered in counts 7 and 8 (deportation and inhumane acts) were identical to those relied upon to support count 6 (persecution). The Trial Chamber dismissed the motion on 28 January 2000 and suggested to the parties that they submit arguments on the duplication of charges in their pre-trial briefs.

26. During the pre-trial stage, the Trial Chamber held several conferences to allow the parties to identify possible points of agreement or disagreement. This work produced several documents which were extremely useful for the conduct and expeditiousness of the trial, including documents on points of agreement and disagreement between the parties dated 25 February and 7 March 2000, respectively.

27. The trial opened on 13 March 2000. During the prosecution case, the Trial Chamber heard many witnesses, including several who had survived the executions carried out after the fall of the protected area of Srebrenica. The prosecution case closed at the end of July 2000.

(d) *Kvočka et al.*

28. In this case, four persons are charged with crimes alleged to have occurred in the Omarska camp in the Prijedor region of Bosnia and Herzegovina. One of the accused, Zoran Žigić, is also accused of crimes committed in Keraterm camp.

29. At the start of the reporting period, Trial Chamber III (Judge May presiding, Judges Bennouna and Robinson) had already been seized of the *Kvočka* case, which deals with many questions, including one relating to the Prosecutor's motion to join the case to the *Kolundžija* case. Having granted several deadline extensions to the parties, the Trial Chamber finally dismissed the motion on 19 October 1999 on the ground that it had a duty to ensure a fair and expeditious trial. On 8 November 1999, the Trial Chamber rejected the defence submissions in respect of the amended indictment. The Trial Chamber also granted protective measures to the prosecution and defence witnesses.

30. In addition, it used depositions taken by a presiding officer who must be the Trial Chamber's senior legal officer. After several discussions, the parties agreed that recourse to that procedure was appropriate for both prosecution and defence witnesses. On 15 November 1999, the Trial Chamber decided that the legal officer could take the depositions of 71 witnesses. Prior to the depositions' being taken, two conferences were held with counsel for all parties and with representatives from the Registry and from the Victims and Witnesses Section in order to decide upon which additional measures to take. Lastly, further to the *Tadić* case, the Prosecutor submitted a motion requesting that the Trial Chamber take judicial notice of the many factual and legal consequences of using that procedure. The motion gave rise to a large number of proceedings.

31. Trial Chamber III ruled on the pre-trial issues in the instance and held regular status conferences.

32. In the light of Trial Chamber III's ongoing schedule, the case was transferred on 3 February 2000 to Trial Chamber I (Judge Rodrigues presiding, Judges Riad and Wald), which was available to commence a trial sooner. The Trial Chamber held three status conferences. The trial opened on 28 February 2000 and continued with the examination under oath of two of the accused, Miroslav Kvočka and Mlađo Radić.

33. On 5 March 2000, Dragoljub Prcać was transferred to the custody of the Tribunal. The charges against him are part of the same crimes as those covered in the case against *Kvočka et al.* On 6 March 2000, the Prosecutor filed a motion to join trials. On 10 March 2000, Mr. Prcać appeared before the Tribunal for the first time and pleaded not guilty to all the war crimes and crimes against humanity ascribed to him. The Trial Chamber then conducted detailed exchanges with the interested parties to review the possibility of joining the two cases. The parties agreed. On 14 April 2000, the Trial Chamber rendered a decision joining the cases.

34. The trial of all the accused in the joined proceedings resumed on 2 May 2000.

35. On 8 June 2000, once the parties had finally declared their agreement as to the facts themselves but not as to the legal consequences which might be inferred from them, the Trial Chamber issued a Decision on Judicial Notice of the many facts at issue and held that it necessarily followed "that at the times and places alleged in the indictment, there existed an armed conflict; that this conflict included a widespread and systematic attack against notably the Muslim and Croat civilian population; and that there was a nexus between these armed conflicts and the widespread and systematic attack on the civilian population and the existence of the Omarska, Keraterm and Trnopolje camps and the mistreatment of the prisoners therein".

36. The Prosecution should finish its case towards October 2000.

(e) *Martinović and Naletilić*

37. On the basis of an indictment dated 21 December 1998, Vinko Martinović, who was being held in respect of a different case in Croatia, was transferred to the custody of the Tribunal on 9 August 1999. The case was assigned to Trial Chamber I (Judge Jorda presiding, Judges Riad and Rodrigues). The accused pleaded not guilty to crimes against humanity, war crimes and grave breaches of the Geneva Conventions. His co-accused, Mladen Naletilić, however, remained in detention in Croatia for another case. On 25 August 1999, the President of the Tribunal reported to the Security Council that the authorities of the Republic of Croatia had failed to transfer Naletilić.

38. After undergoing surgery for his medical condition, Naletilić was finally transferred to the custody of the Tribunal on 21 March 2000. At his

initial appearance, he pleaded not guilty to all the charges.

39. Judge Wald was then appointed pre-trial judge with the aim of having the case ready for trial by autumn 2000. To that end, the parties were asked specific questions, which was the subject of an important status conference on 20 July 2000.

40. The Trial Chamber issued many decisions on witness protection, assignment of counsel for Martinović and the form of the indictment. It rejected the defence motions of the two accused on the latter point. A prosecution motion drew attention to the practical difficulties of implementing rule 94 *ter* of the Rules on affidavit evidence.

(f) *Galić*

41. General Galić is accused of having committed crimes against humanity and violations of the laws or customs of war between 10 September 1992 and 10 August 1994 during a campaign against the civilian population of Sarajevo. Arrested by SFOR, General Galić was transferred to the Tribunal on 21 December 1999. At his initial appearance, on 29 December 1999, he pleaded not guilty to all the charges against him. The Trial Chamber designated its presiding judge to conduct pre-trial proceedings.

42. The defence presented a series of motions which were filed on 13 April 2000 relating, *inter alia*, to the insufficiency of the indictment, the suppression of physical evidence, the suppression of the accused's statements and discovery. The Trial Chamber dismissed all the motions, stating that the one closest to a preliminary motion had been submitted well beyond the time limit, which had expired on 5 February 2000, and that, in respect of the motion for disclosure, the defence had a duty to comply with the general rules and procedures governing the conduct of cases before the Tribunal.

43. The Defence also submitted a motion for provisional release, consideration of which was postponed for several weeks at its own request.

44. The Defence requested a further delay to organize a status conference on the merits of the case, which was finally held on 10 July 2000. On that occasion, the parties also presented their arguments on the request for provisional release. The request was turned down.

(g) *Kordić and Čerkez*

45. Dario Kordić and Mario Čerkez are charged with crimes against humanity, grave breaches of the Geneva Conventions and violations of the laws and customs of war against the Bosnian Muslims in the Lašva Valley region of central Bosnia. The trial commenced on 12 April 1999 before Trial Chamber III (Judge May presiding, Judges Bennouna and Robinson) and is ongoing. The Prosecution's case-in-chief concluded on 10 March 2000.

46. On 30 March 2000, the Trial Chamber heard defence motions for a judgement of acquittal. The Trial Chamber dismissed the motions on 6 April 2000, but determined that there was "no case to answer" in relation to some of the details in 4 of the 44 counts. Dario Kordić's case-in-chief commenced on 10 April 2000 and is expected to end in July 2000. Mario Čerkez's case-in-chief will then commence.

47. By 21 June 2000, the Trial Chamber had sat for 171 days and heard 112 witnesses for the prosecution and 38 witnesses for Dario Kordić's defence. Protective measures such as the assignment of a pseudonym have been granted in respect of 56 of the witnesses and orders for safe conduct were issued in respect of 29 defence witnesses.

48. The Trial Chamber has dealt with a large number of applications from both parties in relation on the admission of affidavit evidence, the admission of transcripts from factually related cases and applications for judicial assistance relating to States and international organizations. In addition, there are currently three interlocutory appeals on evidentiary issues pending before the Appeals Chamber.

(h) *Simić et al. (Bosanski Šamac)*

49. In the indictment *Prosecutor v. Blagoje Simić et al.*, five accused are charged with various crimes against non-Serbs in the municipalities of Bosanski Šamac and Odžak in Bosnia and Herzegovina, including crimes against humanity, grave breaches of the Geneva Conventions and violations of the laws and customs of war. Of the five accused, three have surrendered voluntarily and one, Stevan Todorović, was arrested and detained by SFOR. One accused remains at large.

50. The Trial Chamber seized of this matter comprises Judge Robinson, acting as presiding judge, Judge Hunt and Judge Bennouna. The Trial Chamber

designated its presiding judge as the pre-trial judge for this case.

51. On 7 July 1999, Trial Chamber III commenced contempt proceedings against Milan Simić, one of the accused in this case, and his then lead counsel, Branislav Avramović (the Respondents) under rule 77 of the Rules, based upon allegations of witness interference, intimidation and bribery. The Trial Chamber suspended trial preparations pending the outcome of the contempt proceedings, including vacating the trial date originally set for 22 June 1999. The Trial Chamber heard a total of seven witnesses over a period of nine days. Owing to the competing demands upon the Trial Chamber, these days were spread over a period from September to December 1999. The Trial Chamber delivered its oral judgement in the contempt proceedings on 29 March 2000, finding that the allegations of contempt against both Respondents had not been proven beyond a reasonable doubt.

52. On 27 July 1999, the Trial Chamber issued a confidential decision (the "ICRC Decision"), subsequently made public, in response to an application by the prosecution to call a former employee of the International Committee of the Red Cross (ICRC) to give evidence arising out of his employment with ICRC. The Trial Chamber denied the application, the majority reasoning that ICRC had a confidentiality interest under customary international law such that it was not required to disclose the information sought. The Trial Chamber subsequently dismissed an application by Stevan Todorović for an order to ICRC for the production of documents and the identity of witnesses who visited Bosanski Šamac, based on that prior decision.

53. The accused Stevan Todorović has filed a number of motions challenging the legality of his arrest. He has also filed a large number of ancillary motions, seeking to obtain evidence from both the prosecution and SFOR as to the manner of his transfer to SFOR authority. After various procedural steps, the Trial Chamber granted the accused an evidentiary hearing on the matter. On 24 November 1999, the Trial Chamber heard evidence from the accused himself as to the manner and circumstances of his arrest. In connection with that hearing, the accused has sought certain information on the nature of SFOR's involvement in the arrest. The prosecution was ordered to provide such information but has stated that it does not have most of the material sought. A hearing on the request to SFOR has been scheduled and SFOR has been invited to attend.

54. On 4 April 2000, Miroslav Tadić and Simo Zarić, both of whom had surrendered voluntarily, were granted provisional release subject to certain terms and conditions. The reasons for release were based on the individual circumstances of this case, in particular, the voluntary surrender of the accused, the length of detention and the fact that, in the light of the ongoing motions and applications, there was no indication that the matter would soon be ready for trial. The Trial Chamber granted a one-day stay of the release, pending any application to appeal. On 5 April 2000, the prosecution sought leave to appeal the Trial Chamber's decision; the application was dismissed by a Bench of the Appeals Chamber on 19 April 2000. Tadić and Zarić were provisionally released the same day.

55. On 29 May 2000, the Trial Chamber granted an application for provisional release from Milan Simić on similar grounds, and denied the prosecution's application for a stay of the decision. Milan Simić was provisionally released on 7 June 2000, as soon as practical arrangements for his release were in place.

56. Regular status conferences have also been held on this matter.

(i) *Kolundžija*

57. Dragan Kolundžija, Damir Došen and Duško Sikirica are charged with grave breaches of the Geneva Conventions, violations of the laws or customs of war and crimes against humanity in the Keraterm camp in the municipality of Prijedor. Duško Sikirica is also charged with genocide.

58. Dragan Kolundžija was arrested in June 1999 by SFOR. On 29 September 1999, the accused pleaded not guilty to all counts charged against him in an amended indictment that was confirmed on 30 August 1999.

59. Damir Došen was detained by SFOR in October 1999. On 8 November 1999, at his initial appearance, the accused pleaded not guilty to all counts charged against him in the indictment.

60. On 3 February 2000, Judge Bennouna was appointed pre-trial judge.

61. Duško Sikirica was arrested by SFOR on 25 June 2000 and made his initial appearance shortly thereafter.

62. On 10 February 2000, Trial Chamber III ruled on defence motions challenging the form of the indictment and ordered the prosecution to provide an amended version of an attachment to the indictment, specifying the capacity in which the accused is alleged to have participated in each alleged incident. The defence has challenged whether the prosecution has complied with this requirement and further hearings have been held on this issue.

63. In the pre-trial stage, the Chamber and the pre-trial Judge have ruled on a number of motions on the protection of witnesses, on disclosure of documents and on the filing of witness lists and have held hearings on judicial notice, pre-trial admission of documentary evidence and bifurcation of trial. Regular status conferences have been held throughout by the Chamber and the pre-trial judge.

64. The Trial Chamber has set 6 November 2000 as the projected date for commencement of the trial. The necessary pre-trial conference has been scheduled and the Chamber has ordered the filing of pre-trial briefs, witness lists and other information in preparation for trial.

(j) *Krajišnik*

65. On 3 April 2000, Momčilo Krajišnik was arrested by SFOR. The indictment against him was confirmed on 21 February 2000 and subsequently amended on 21 March 2000, but remained under seal until his arrest. The accused is charged with genocide, complicity in genocide, crimes against humanity, violations of the laws and customs of war and grave breaches of the Geneva Conventions of 1949.

66. According to the indictment, the accused, acting individually or in concert with Radovan Karadžić and others, participated in a series of crimes in order to secure control of those areas of Bosnia and Herzegovina which had been proclaimed part of the so-called Serbian Republic of Bosnia and Herzegovina. To achieve this goal, various Bosnian Serb forces, acting under the direction and control of the accused, Radovan Karadžić and others, were engaged in a variety of actions to significantly reduce the Bosnian Muslim, Bosnian Croat and other non-Serb populations of those regions.

67. On 7 April 2000, at his initial appearance, the accused pleaded not guilty to all counts.

68. Judge May was appointed pre-trial judge on 13 April 2000.

69. On 8 June 2000, the defence filed two preliminary motions, after having been granted an extension of time to do so. The first preliminary motion was related to the jurisdiction of the Tribunal whereby the defence argued that the Tribunal had no jurisdiction over the defendant, and as a consequence, requested that the entire amended indictment be dismissed, that the case against the defendant be dropped and that the defendant be set free immediately. The second preliminary motion was based on defects in the form of the indictment, with regard to the vagueness and lack of particulars, the clarification of the individual criminal responsibility, the supporting material and the clarification of the general allegation issue. The prosecution has responded and the Trial Chamber will determine the issues.

(k) *Kupreškić et al.*

70. Trial Chamber II (Judge Cassese presiding, Judges May and Mumba) heard closing arguments in this case from 9 to 11 November 1999. The Trial Chamber delivered its judgement on 14 January 1999. Five of the accused were sentenced to terms ranging from 6 to 25 years' imprisonment. One of the accused, Dragan Papić, was acquitted.

71. Six accused were charged in connection with their alleged role in the attack on the village of Ahmići in central Bosnia on 16 April 1993 and the massacre of 116 Muslim inhabitants of the village. In its judgements, the Trial Chamber described the attack on Ahmići as a "well-planned and well-organized killing of civilian members of an ethnic group Š...ć by the military members of another ethnic group".

72. The Trial Chamber also emphasized that the protection of civilians during armed conflict was at the centre of modern international humanitarian law and that that body of law should be interpreted accordingly.

(l) *Kunarac et al.*

73. The three accused in this case are charged in connection with their alleged participation in the detention, degrading treatment and rape of women and girls in Foča and surrounding municipalities. They are charged with crimes against humanity (rape, torture and enslavement) and violations of the laws or customs

of war (rape, torture, plunder and outrages upon personal dignity).

74. Radomir Kovač was arrested on 2 August 1999. At his initial appearance, on 4 August 1999, he pleaded not guilty to all counts of the indictment.

75. On 3 September 1999, a second amended indictment was confirmed, joining Radomir Kovač and Dragoljub Kunarac and adding two new counts against Kovač. The Trial Chamber (Judge Mumba presiding, Judges Hunt and Pocar) held a further initial appearance on 24 September 1999, during which both accused pleaded not guilty to all counts. The Chamber designated its presiding judge to conduct pre-trial proceedings.

76. On 7 October 1999, counsel for Radomir Kovač filed a preliminary motion on the form of the indictment. On 4 November 1999, the Trial Chamber issued its decision granting some of the defence requests and requesting the prosecutor to amend the second amended indictment accordingly.

77. On 10 October 1999, Dragoljub Kunarac filed a request for provisional release. By decision of 11 November 1999, the Trial Chamber denied the request.

78. A status conference was held on 15 November 1999. The Trial Chamber fixed the starting date of the trial for 1 February 2000. On 14 December 1999, another status conference was held during which the pre-trial judge postponed the trial to 20 March 2000 to give the accused Kovač sufficient time to prepare his case.

79. On 23 December 1999, Zoran Vuković was arrested and he was transferred to the Tribunal on 24 December 1999. At his initial appearance, on 29 December 1999, he pleaded not guilty to all charges.

80. On 15 February 2000, the Trial Chamber granted Vuković's motion for joinder. The prosecutor filed a redacted Indictment (case No. IT-96-23/1) on 21 February 2000, pursuant to a decision of the Trial Chamber (9 February 2000) which had severed the case against Zoran Vuković from the indictment against another four co-accused.

81. The pre-trial conference was held on 2 March 2000 and the trial commenced on 20 March 2000.

82. The prosecution's case-in-chief concluded on 13 June 2000. The defence case-in-chief began on 3 July 2000.

(m) *Krnojelac*

83. Milorad Krnojelac is charged with grave breaches of the Geneva Conventions of 1949, violations of the laws or customs of war and crimes against humanity for his alleged role as camp commander in the Kazneno-Popravni Dom (KP Dom) detention centre in Foča from April 1992 to August 1993. The amended indictment alleges that Krnojelac subjected both Muslim and other non-Serb males to prolonged and routine imprisonment and confinement, repeated torture and beatings, countless killings, prolonged and frequent forced labour and generally inhumane conditions within the KP Dom. In addition, he allegedly assisted in the deportation or expulsion of the majority of Muslim and non-Serb males from the Foča municipality.

84. The amended indictment was the subject of two further motions on the form of the indictment. The decisions of the Chamber (Judge Hunt presiding, Judges Mumba and Liu) on these motions, dated 11 February and 11 May 2000, respectively, focused primarily on the requirement of specificity of pleading in an indictment in relation to the accused's participation in or responsibility for the crimes alleged. The decisions emphasized that the degree of detail required in relation to matters such as the identity of the victim, places and dates of events depended on the alleged proximity of the accused to those events.

85. A further initial appearance was held on 14 September 1999 and the accused pleaded not guilty to all charges. Judge Hunt was designated by the Trial Chamber as the pre-trial judge for the case.

86. No date has yet been set for the beginning of the trial.

(n) *Brdjanin and Talić*

87. The amended indictment of 17 December 1999 charges the accused for their alleged participation in the ethnic cleansing of non-Serbs from the Autonomous Region of Krajina between April and December 1992. It is alleged that, as a prominent member of the Serbian Democratic Party and the Vice-President of the Autonomous Region of Krajina Assembly, Radoslav Brdjanin played a leading role in the takeover of power by Serbian authorities in the Banja Luka region. As commander of the 5th Corps/1st Krajina Corps, Momir Talić had the authority to direct and control the actions of all forces assigned to the 5th

Corps/1st Krajina Corps or within his control. Both accused are charged with genocide and crimes against humanity.

88. Brdjanin was arrested on 6 July 1999 and pleaded not guilty to all charges at his initial appearance on 12 July 1999. Talić was arrested on 25 August 1999 and also pleaded not guilty to all charges at his initial appearance on 31 August 1999.

89. On 1 December 1999, the accused Momir Talić applied for his release on the basis, *inter alia*, that the indictment did not disclose a prima facie case and that he did not know the nature of the charges against him. On 10 December 1999, the Trial Chamber dismissed his request, declaring his detention to be lawful.

90. On 17 December 1999, an amended indictment was confirmed. It charges the accused (the basis of individual and superior criminal responsibility) with two counts of genocide, five counts of crimes against humanity, two counts of violations of the laws or customs of war and three counts of grave breaches of the Geneva Conventions of 1949. On 11 January 2000, at the further initial appearance, both accused pleaded not guilty to all counts.

91. On 1 February 2000, the Trial Chamber rejected motions by the accused, Momir Talić, to dismiss the indictment, and again for his release.

92. On 5 May 2000, Momir Talić filed a motion seeking the disqualification of Judge Mumba. It was argued that because she had sat in the *Tadić* Appeals Chamber where a similar legal issue was being litigated, in the same factual context, she would not be able to abandon the opinion she had formulated and come to an independent decision in the present case. On 18 May 2000, the presiding judge rejected the motion, on the basis that Judge Mumba as a professional judge would decide the issues before her in the present case on the basis of the evidence produced and that there could be no apprehension that she would not bring an impartial and unprejudiced mind.

93. No date has yet been set for the beginning of the trial.

(o) *Vasiljević*

94. Mitar Vasiljević was arrested on 25 January 2000. The relevant indictment was confirmed on 26 August 1998 but remained under seal until his arrest. According to the indictment, in the spring of 1992, in Višegrad, a group of local men formed a paramilitary unit of which Vasiljević is thought to have been a member. In May 1992, and continuing until at least October 1994, the accused and other members of the group allegedly killed a significant number of Bosnian Muslim civilians. The accused is charged with violations of the laws or customs of war and crimes against humanity. On 28 January 2000, at his initial appearance, he pleaded not guilty to all counts. The Trial Chamber designated in turn Judge Pocar (until 2 May 2000) and Judge Liu as pre-trial judge.

95. At a status conference, held on 26 May 2000, counsel for the accused indicated that there would be no challenge to the form of the indictment and the prosecution informed the Trial Chamber that its case would be brief and would last approximately 14 days.

(p) *Nikolić*

96. Dragan Nikolić has been charged with grave breaches of the Geneva Conventions of 1949, violations of the laws or customs of war and crimes against humanity for his alleged role in the mistreatment of detainees at the Šusica camp, where he was a commander from approximately the end of May 1992 to the end of September 1992.

97. On 22 April 2000, Dragan Nikolić was transferred to the custody of the Tribunal. At his initial appearance, on 28 April 2000, he pleaded not guilty to the 80 counts in the indictment. Judge Liu was appointed pre-trial judge.

98. No date has yet been set for the beginning of the trial.

2. Appeals

(a) Interlocutory appeals

99. Interlocutory appeals from decisions of Trial Chambers can arise under four specific rules: (a) rule 65 requests for provisional release; (b) rule 72 decisions on preliminary motions; (c) rule 73 decisions on other motions; and (d) rule 108*bis* State requests for review. Trial Chamber decisions under rule 72 which involve a challenge to jurisdiction under sub-rule 72(A)(i) may be appealed as of right to the full Appeals Chamber. Appeals from all other Trial Chamber decisions must first obtain leave to appeal from a bench of three judges of the Appeals Chamber. During

the reporting period, a total of 14 new interlocutory appeals were filed.

100. Six applications for leave to appeal, relating to provisional release were filed pursuant to rule 65, were all denied leave by a Bench of three judges of the Appeals Chamber.

101. Two interlocutory appeals were brought pursuant to rule 72. Leave to appeal was denied by a Bench of three judges of the Appeals Chamber in one application. The other application challenged jurisdiction and therefore no leave to appeal was required. In this case, the full Appeals Chamber found the interlocutory appeal improperly filed, as the alleged error could not be considered as going to jurisdiction within the meaning of rule 72. The application was dismissed.

102. Six applications for leave to appeal were brought pursuant to rule 73. Two of them were granted leave (both in the *Kordić* case[3]) and the decisions on the merits of both these interlocutory appeals are still pending. In three applications, leave to appeal was denied. One application for leave to appeal is currently pending before a Bench of three judges.

103. In addition, during the previous reporting period, leave to appeal was granted in the *Simić (Todorović)* interlocutory appeal[4] under rule 73; however, the decision on the merits was delivered during this reporting period. Further, in two applications for leave to appeal filed under rule 73 during the previous reporting period, the Bench denied the applications during this reporting period.[5]

Simić (Todorović) interlocutory appeal[6]

104. On 24 May 1999, the accused Stevan Todorović filed an application pursuant to sub-rule 73 (B) for leave to appeal an oral decision of 4 March 1999 and of a written decision of 25 March 1999 by Trial Chamber III. The Trial Chamber had denied the accused's motion requesting a preliminary evidentiary hearing as to the facts and circumstances of his arrest in September 1998 as well as an order to the Prosecutor to make available all documents in their files with respect to the manner, method and individuals who detained, arrested and delivered him to the Tribunal.

105. On 1 July 1999, a Bench of three judges of the Appeals Chamber (Judge McDonald Presiding, Judges Shahabuddeen and Cassese) granted leave to appeal. On 13 October 1999, the Appeals Chamber (Judge McDonald presiding, Judges Shahabuddeen, Cassese, Wang and Nieto-Navia) delivered its decision on the merits. In dismissing the appeal, the Appeals Chamber decision asserted that: (a) the issue before the Trial Chamber was not whether there had been a kidnapping but whether or not to grant the accused's request for an evidentiary hearing as to his alleged kidnapping; (b) the Trial Chamber, in its 25 March 1999 decision, had denied the motion on the basis that it had not presented sufficient factual and legal material, and in particular had not provided a statement as to the factual circumstances of his arrest; and (c) the Trial Chamber had not abused its discretion in reaching its decision. Accordingly, the Appeals Chamber found no ground for intervening in respect of the Trial Chamber's finding.

(b) Appeals against judgement

106. During the reporting period, appeals against judgements have been brought before the Appeals Chamber in the *Jelisić*,[7] *Kupreškić*[8] and *Blaškić*[9] cases. The Appeals Chamber also rendered judgement on appeal in the *Tadić* sentencing[10] and in the *Aleksovski* cases.[11] While oral hearings on appeal have also taken place in the *Furundžija*[12] and the *Čelebići* cases,[13] the judgements are still pending.

(i) Tadić sentencing judgement[14]

107. The Appeals Chamber (Judge Shahabuddeen presiding, Judges Mumba, Cassese, Wang and Nieto-Navia) rendered its judgement in the sentencing appeal in the *Tadić* case on 26 January 2000.

108. On 7 May 1997, Trial Chamber II found Tadić guilty on nine counts, guilty in part on two counts and not guilty on 20 counts. In its sentencing judgement, issued on 14 July 1997, the Trial Chamber imposed penalties ranging from 6 to 20 years' imprisonment for each of the counts and ordered that the sentences were to run concurrently. The Trial Chamber also recommended that, unless exceptional circumstances arose, Tadić's sentence should not be commuted or otherwise reduced to a term of imprisonment less than 10 years from the date of the sentencing judgement or of the final determination of any appeal, whichever was the later. In calculating the credit to which Tadić was entitled for time spent in detention, the Trial Chamber further held that he was not entitled to such credit from the point in time at which he was originally arrested in

Germany, but only from the date when a request for deferral was issued to Germany. The Trial Chamber also ordered that the minimum sentence imposed was not to be subject to any entitlement to credit.

109. Both Tadić and the Prosecutor appealed against the judgement and Tadić also appealed against the sentencing judgement.

110. On 15 July 1999, the Appeals Chamber rendered its judgement on the appeal against the Trial Chamber's judgement. Reversing the judgement in certain respects, the Appeals Chamber found Tadić guilty on a number of additional counts (see A/54/187-S/1999/846, paras. 74-79). With the agreement of the parties, the Appeals Chamber deferred sentencing on these additional counts to a separate sentencing procedure. Considering that the two matters could appropriately be considered together, the Appeals Chamber similarly deferred its judgement on Tadić's appeal against the sentencing judgement until the completion of this new sentencing procedure.

111. On 11 November 1999, the designated Trial Chamber issued its sentencing judgement (second sentencing judgement) on the additional counts. The Trial Chamber imposed sentences ranging from 6 to 25 years and stipulated that the new sentences were to run concurrently both inter se and in relation to each of the sentences imposed by the sentencing judgement of 14 July 1997.

112. On 25 November 1999, Tadić appealed against the second sentencing judgement and on 3 December 1999, the Appeals Chamber ordered that Tadić's appeals against the two sentencing judgements be joined. Accordingly, the sentencing appeal judgement relates both to Tadić's appeal against the sentencing judgement of 14 July 1997 and his appeal against the second sentencing judgement of 11 November 1999.

Appeal against the sentencing judgement of 14 July 1997

113. As to the appellant's first ground of appeal, the Appeal Chamber could find no error in the exercise of the Trial Chamber's discretion with respect to the weight given to the sentencing practice of the former Yugoslavia and the Trial Chamber's consideration of the personal circumstances of the appellant. Accordingly, the sentences imposed by the sentencing judgement of 14 July 1997 were affirmed, subject to the recommended minimum term and credit for previous custody in Germany.

114. As to the second ground, the Appeals Chamber held that the Trial Chamber's recommendation that the 10-year minimum sentence run "from the date of this sentencing judgement or of the final determination of any appeal, whichever is the later" raised legitimate concerns with respect to the right of appeal as provided by article 25 of the Statute. Accordingly, the Appeals Chamber found that the Trial Chamber had erred insofar as it ordered that the recommended minimum term should take as its starting point the final determination of any appeal. However, the Appeals Chamber was not satisfied that the Trial Chamber had erred in the exercise of its discretion in ordering that the recommended minimum term run from the date of the sentencing judgement of 14 July 1997, nor that it had erred in ordering that the appellant not be entitled credit in respect of the minimum term. To preserve that part of the recommendation, the Appeals Chamber recommended that the appellant should serve a minimum period of imprisonment ending no earlier than 14 July 2007, i.e., 10 years from the imposition of the original sentences.

115. As to the third ground, the Appeals Chamber held that the appellant was entitled to credit for the time spent in custody in Germany for the period during which he was in detention pending his surrender to the Tribunal. However, the Appeals Chamber recognized that the criminal proceedings against the appellant in Germany had emanated from the same criminal conduct for which he now stood convicted. Consequently, the Appeals Chamber found that fairness required that account should be taken of the complete period the appellant had spent in custody in Germany.

Appeal against the sentencing judgement of 11 November 1999

116. As to the first ground, the Appeals Chamber was not satisfied with the Appellant's argument that the Trial Chamber had given undue weight to deterrence as a factor in the determination of the appropriate sentence and, accordingly, that ground was dismissed.

117. The Appeals Chamber held, however, that the Trial Chamber's judgement had failed to consider adequately the need for sentences to reflect the relative significance of the role of the appellant in the broad context of the conflict in the former Yugoslavia. The

Appeals Chamber considered that, although the criminal conduct underlying charges of which the appellant now stood convicted was incontestably heinous, his level in the command structure when compared to that of his superiors or the very architects of the strategy of ethnic cleansing was low. In the circumstances of the case, the Appeals Chamber therefore considered that a sentence of more than 20 years' imprisonment for any count in the indictment was excessive. The Appeals Chamber therefore revised the second sentencing judgement and sentenced Tadić to 20 years' imprisonment for each of the counts, to run concurrently both inter se and in relation to the prison terms earlier imposed by the Trial Chambers as affirmed by the Appeals Chamber in the present judgement.

118. In the third ground, the appellant contended that the Trial Chamber had erred in finding that his providing the Prosecutor with certain material did not meet the standard of "substantial cooperation" within the meaning of the rules and therefore that it was not to be taken into account in the determination of the appropriate sentence.

119. The Appeals Chamber was not satisfied that any basis in law or fact had been disclosed in support of this ground of appeal, which was accordingly dismissed.

120. As to the fourth ground of appeal, the Appeals Chamber (Judge Cassese dissenting) held that there was no distinction between the seriousness of a crime against humanity and that of a war crime for the purpose of sentencing. The Appeals Chamber found no basis for such a distinction in the Statute or the Rules of Procedure and Evidence, construed in accordance with customary international law. It found that the position was similar under the Statute of the International Criminal Court and therefore upheld this ground of appeal.

121. As to the fifth ground, in which the appellant mainly set forth issues as part of the first ground of appeal against the sentencing judgement of 14 July 1997, the Appeals Chamber found no error in the exercise of its discretion by the Trial Chamber with respect to the weight given to the sentencing practice of the courts of the former Yugoslavia. Accordingly, that ground was dismissed.

122. As to the sixth ground, which was identical to the third ground of appeal against the sentencing judgement of 14 July 1997, the Appeals Chamber found that the interest of justice required that the appellant should be granted credit for the entire time spent in detention in Germany. The credit in time to which the appellant was entitled was therefore to be calculated from the day of his arrest in Germany.

(ii) Aleksovski judgement

123. On 7 May 1999, Trial Chamber I found Aleksovski guilty of one count, of a violation of the laws or customs of war, for outrages upon personal dignity committed in 1993 in a prison facility at Kaonik, Bosnia and Herzegovina. Aleksovski was the commander of the prison and was convicted on the basis of his individual and superior responsibility. He was sentenced to two years' and six months' imprisonment. Considering that Aleksovski was entitled to credit for time served in the United Nations Detention Unit for a period of 2 years, 10 months and 29 days, the Trial Chamber ordered his immediate release, notwithstanding any appeal.

124. Both Aleksovski and the prosecution appealed against the judgement and the sentence. On 9 February 2000, the Appeals Chamber heard the oral submissions of the parties and from the Bench, dismissed Aleksovski's appeal against conviction and allowed the prosecution's appeal against sentence. Stating that a "revised sentence" would be considered, the Appeals Chamber ordered Aleksovski's immediate return to custody and reserved its judgement on the prosecution's grounds of appeal against the judgement announcing that a written reasoned judgement, including the revised sentence, would be issued in due course.

125. On 24 March 2000, the Appeals Chamber (Judge May presiding, Judges Mumba, Hunt, Wang and Robinson) rendered its written judgement.

126. In relation to the first ground submitted by the appellant, that the Trial Chamber had failed to establish his "discriminatory intent", the Appeals Chamber ruled that a discriminatory intent or motive was not an element of offences under article 3 of the Statute nor of the offence of outrages upon personal dignity. The Appeals Chamber accordingly dismissed that argument for the reasons that: (a) the defence was unable to provide any authority supporting its claim; (b) there was nothing in article 3 or in the Statute in general which could lead to a conclusion that those offences

were punishable only if they had been committed with discriminatory intent; (c) more generally, international instruments provided no basis for imposing a discriminatory requirement in the context of article 3 offences; (d) it could not be argued that a rule of customary international law imposed such a requirement; and (e) there was no indication in the jurisprudence of the Tribunal that such a requirement had ever been considered.

127. As to the second ground, the appellant submitted that his conduct was justified by necessity. The Appeals Chamber rejected this ground and found that the appellant had been faced with the actual choice of ill-treating the detainees or not and that he had been convicted for choosing the former.

128. As to the third ground dismissed, the Appeals Chamber found that the Trial Chamber had not erred in the exercise of its discretion when it evaluated the testimony of various witnesses and thus had applied the standard of proof correctly. As a matter of principle, Trial Chambers were best placed to hear, assess and weigh the evidence presented at trial. The Appeals Chamber asserted that it might overturn their findings of fact only where the evidence relied upon could not have been accepted by any reasonable tribunal or where the evaluation of the evidence was wholly erroneous.

129. As to the fourth ground, the Appeals Chamber found that the appellant had failed to convince the Chamber that unreasonable factual conclusions had been drawn by the Trial Chamber in respect of his role as a superior. This ground of appeal was thus dismissed.

130. The prosecution appeal challenged the international character of the conflict, protected persons, the role of precedent in the Tribunal as well as the sentence imposed. The Appeals Chamber held that in the interest of certainty and predictability it should follow its previous decisions, but should be free to depart from them for cogent reasons in the interest of justice. Thus, the principle was that previous decisions should be followed and departure from them should remain the exception. The Appeals Chamber also made it clear that what was to be followed in previous decisions was the legal finding (*ratio decidendi*) underpinning them and that the obligation to follow previous decisions only applied to similar cases or substantially similar cases. The *ratio decidendi* of the Appeals Chamber's decisions was also binding on Trial Chambers for the following reasons: (a) the Statute established a hierarchical structure in which the Appeals Chamber was given the function of settling definitively questions of law and fact arising from decisions of the Trial Chambers; (b) the mandate of the Tribunal could not be fulfilled if the accused and the prosecution did not have the assurance of certainty and predictability in the application of law; and (c) the right to appeal provided the accused with the right to have cases treated alike and ensured a certain degree of coherence in the law of the Tribunal. The Appeals Chamber stated, however, that decisions of Trial Chambers had no binding force on other Trial Chambers although a Trial Chamber was free to follow the decision of another if it found that decision persuasive.

131. The Appeals Chamber then followed its reasoning in the *Tadić* judgement of 15 July 1999 that the international character of a conflict should be based on the overall control test. On that basis, the Appeals Chamber accepted the prosecution's submissions that the conflict in the present case was international and that the victims were protected persons. The Appeals Chamber also found that the Trial Chamber had not applied the overall control test in determining the applicability of article 2. It decided, nonetheless, not to remit the case to the Trial Chamber and declined to reverse the Trial Chamber's acquittals of the counts relating to article 2 of the Statute because the material acts underlying the charges were the same as the other counts Aleksovski had already been found guilty of. Any additional sentence imposed would be concurrent on all counts and would not lead to any increase in sentence.

132. The Appeals Chamber overturned the Trial Chamber's finding and found Aleksovski responsible for aiding and abetting the mistreatment of prisoners outside the prison compound. However, the Appeals Chamber specified that it did not believe that the additional finding of itself warranted any heavier sentence.

133. The prosecution appeal against the initial sentence of two and a half years was allowed. The Appeals Chamber found that the Trial Chamber had erred in its imposition of the sentence. In applying the discernible test (*Tadić* decision of 15 July 1999), the Appeals Chamber found that the Trial Chamber had erred in the exercise of its discretion by not having

given sufficient weight to the gravity of the conduct of the appellant and failing to treat his position as a commander as an aggravating feature.

134. In imposing a revised sentence, the Appeals Chamber considered the element of double jeopardy, in that the appellant had had to appear for sentence twice for the same conduct and also that he had been detained a second time after a period of release of nine months. The Appeals Chamber found that, had it not been for those factors, the sentence would have been considerably longer.

135. The sentence was increased to seven years' imprisonment with deduction for the time already spent in custody.

(iii) Furundžija appeal

136. On 22 December 1998, Anto Furundžija filed a notice of appeal against the judgement by Trial Chamber II of 10 December 1998. The hearing of the appeal took place on 2 March 2000. The judgement by the Appeals Chamber (Judge Shahabuddeen presiding, Judges Vohrah, Nieto-Navia, Robinson and Pocar) was delivered on 21 July 2000.

137. The Appeals Chamber delivered judgement in this appeal on 21 July 2000. The judgement first dealt with the question of the relevant standard of review on appeal, which was raised by the parties. It held that, under article 25 of the Statute, the role of the Appeals Chamber was limited to correcting errors of law invalidating a decision and errors of fact which had occasioned a miscarriage of justice. An appellant bore the burden of argument in alleging legal errors, but even if the arguments did not support his contention, the Appeals Chamber might still step in and, for other reasons, find in favour of the contention that there had been an error of law. Regarding errors of fact, it was only where the evidence relied on by the Trial Chamber could not reasonably have been accepted by any reasonable person that the Appeals Chamber could substitute its own finding for that of the Trial Chamber.

138. As to the first ground of appeal, the Appeals Chamber held that the appellant had not been denied the right to a fair trial. As to the second ground, the Chamber held that there had been no showing that the factual findings by the Trial Chamber were unreasonable on the basis of the evidence admitted at trial, and that it had not been persuaded as to the existence of any legal errors which required it to intervene. On the third ground, the Chamber held that there was no requirement that the actual evidence on which the Prosecutor relied had to be included in the amended indictment, and that the defence was not prejudiced by the Trial Chamber's admission during trial of evidence in support of facts not alleged in the indictment. Regarding the fourth ground, the Chamber held that Judge Mumba, the presiding judge in the appellant's trial, was subjectively free of bias and that there was nothing in the surrounding circumstances which objectively gave rise to an appearance of bias. As to the fifth ground, the Appeals Chamber held that the sentence imposed upon the appellant was not excessive and that, in imposing the sentence, the Trial Chamber had exercised its discretion in accordance with the relevant provisions of the Statute and the Rules as well as the previous decisions of the Tribunal.

139. For the foregoing reasons, the Appeals Chamber unanimously rejected each ground of appeal, dismissed the appeal and affirmed the convictions and sentences. Judges Shahabuddeen, Vohrah and Robinson appended declarations to the judgement.

(iv) Čelebići appeal

140. The judgement in the *Čelebići* case, rendered by Trial Chamber II on 16 November 1998, has been appealed by three of the accused. Delić filed his notice of appeal on 24 November, Mucić on 27 November and Landžo on 1 December 1998. The prosecution also filed a notice of appeal on 26 November 1998. In addition, in relation to the prosecution's appeal against the acquittal of Zejnil Delalić, that accused filed a cross-appeal. During the reporting period, 36 orders and decisions have been issued on various procedural and evidentiary matters. Following a number of requests for extensions of time, the Appeals Chamber (Judge Hunt presiding, Judges Riad, Nieto-Navia, Bennouna and Pocar) heard the oral arguments of the parties from 5 to 8 June 2000. The judgement of the Appeals Chamber is pending.

(v) Jelisić appeal

141. The judgement against Goran Jelisić was delivered orally by Trial Chamber I on 19 October 1999 and was appealed by the Office of the Prosecutor on 21 October 1999. Jelisić filed a notice of cross-appeal on 26 October 2000. After the written judgement was delivered on 14 December 1999, Jelisić filed a second notice of appeal on 15 December 1999.

Following requests for extensions of time, the Appeals Chamber (Judge Shahabuddeen presiding, Judges Vohrah, Nieto-Navia, Wald and Pocar) ordered the appellant's brief to be filed by 7 August 2000, the Response by 6 September 2000 and the Reply by 21 September 2000.

(vi) Kupreškić appeal

142. Trial Chamber II rendered its judgement in the *Kupreškić* case on 14 January 2000. A notice of appeal was filed on 24 January by Vladimir Santić; on 26 January by Drago Josipović and Vlatko Kupreškić; on 27 January by Zoran Kupreškić and on 28 January 2000 by Mirjan Kupreškić. The Prosecutor filed a notice of appeal on 31 January 2000. Following requests for extensions of time, the Appeals Chamber (Judge Bennouna presiding, Judges Vohrah, Nieto-Navia, Wald and Pocar) ordered that the filing of appellants' brief be extended to 3 July 2000. The Chamber has appointed Judge Bennouna as pre-appeal judge.

(vii) Blaškić appeal

143. Tihomir Blaškić filed a notice of appeal on 17 March 2000 against the Trial Chamber judgement of 2 March 2000. Following a request for an extension of time and a motion for discovery, the briefing schedule has been suspended. The Appeals Chamber (Judge Vohrah presiding, Judges Nieto-Navia, Wald, Pocar and Liu) has appointed Judge Pocar as pre-appeal judge.

(c) Other appeals

(i) Aleksovski contempt appeal

144. On 18 December 1998, a defence counsel from the *Blaškić* trial lodged an appeal against a decision by the Trial Chamber in the *Aleksovski* case finding him guilty of contempt of the Tribunal under rule 77. The Bench of three judges of the Appeals Chamber (Judge May presiding, Judges Wang and Hunt) granted the appellant's application for leave to appeal on 22 December 1998. The appellant's brief was filed on 12 February 1999 and the Response by the Prosecutor on 19 February 1999. The appellant's reply was filed on 26 February 1999. The parties have agreed that no oral hearings are necessary. The decision is pending before the Appeals Chamber (Judge Hunt presiding, Judges May, Bennouna, Robinson and Pocar).

(ii) Tadić contempt appeal

145. On 31 January 2000, the Appeals Chamber (Judge Shahabuddeen presiding, Judges Mumba, Cassese, Nieto-Navia and Hunt) found Milan Vujin, former counsel for Duško Tadić, in contempt of the Tribunal and imposed a fine of 15,000 Netherlands guilders. The Appeals Chamber, acting as the first instance chamber, found that Vujin had put forward to the Appeals Chamber, in support of an application under rule 115 to present additional evidence in the Tadić appeal, a case which was known to him to be false. It further found that Vujin had manipulated two witnesses, seeking to avoid any identification by them of persons who might have been responsible for the crimes for which Tadić had been convicted. Vujin filed an application for leave to appeal on 7 February 2000. A Bench (Judge Jorda presiding, Judges Bennouna and Pocar) is to decide whether leave should be granted.

(iii) State requests for review

146. During the reporting period, no request for review has been entertained by the Appeals Chamber.

3. Indictments and arrest warrants

147. On 30 August 1999, the amended indictments against Dragan Kolundžija and Damir Došen, charged with crimes against humanity and violations of the laws or customs of war, were confirmed.

148. An indictment against Gojko Janković, Janko Janjić, Zoran Vuković, Dragan Zelenović and Radovan Stanković was confirmed on 7 October 1999. Moreover, a redacted indictment against Zoran Vuković was made public at the time of his arrest on 21 February 2000. The accused Zoran Vuković appeared together with the accused Dragoljub Kunarac and Radomir Kovac[15] for whom the last amended indictment was confirmed on 1 December 1999. The three are charged with crimes against humanity and violations of the laws or customs of war.

149. The indictment against Dragoljub Prcać was confirmed on 8 March 2000. The accused appeared together with Miroslav Kvočka, Mladen Radić, Zoran Žigić and Milojica Kos.[16]

150. The initially sealed indictment against Mitar Vasiljević was opened upon his arrest by SFOR on 25 January 2000.

151. The amended indictments against Radislav Krstić and Momčilo Krajišnik were confirmed on 27 October 1999 and 21 March 2000 respectively. The initial indictment of 21 February 2000 against Krajišnik remained confidential after it was confirmed on 26 February 2000.

152. On 17 December 1999, the amended indictment against Radoslav Brdjanin and Momir Talić, who appeared together in the same case, was confirmed.[17] The two, initially charged with persecution as a crime against humanity, are now charged with genocide, crimes against humanity, violations of the laws or customs of war and grave breaches of the Geneva Conventions.

C. Chambers Legal Support Service

153. In order to increase cohesion between the Chambers and the Tribunal's Administration, a decision was taken to reorganize the Chambers Legal Support Service. Overall responsibility for this, including administrative control over all Chambers personnel, was given to the Deputy Registrar under the operational authority of the President and the general supervision of the Registrar. The Deputy Registrar was given the responsibility of coordinating all administrative questions pertaining to Chambers, in particular those relating to budget and recruitment, in close cooperation with the *Chef de Cabinet* and the lawyers in Chambers. This has been done so as to enable them to fulfil their functions effectively.

154. Furthermore, the Deputy Registrar will work closely with the judges to ensure the proper conduct of the trials and to move them forward more expeditiously. He will also take all the appropriate measures to implement the decisions of the Chambers and the judges, in particular, penalties and sentences.

D. State cooperation

155. In accordance with Article 25 of the Charter of the United Nations and further to Security Council resolution 827 (1993) of 25 May 1993, all States are bound to cooperate with the Tribunal. Article 29 of the Statute provides that this is an obligation to cooperate generally with the carrying out of the Tribunal's mandate and to respond to specific requests for assistance and to the orders of a Trial Chamber. All the States Members of the United Nations, including those of the former Yugoslavia, must comply with this obligation.

156. Although imperfect and still very problematic, cooperation between States and the Tribunal improved over the reporting period. This improvement can be seen in the fact that much evidence has been forwarded to the Tribunal and arrests of indictees have increased significantly. In one year, a total of 13 individuals were apprehended.

157. This success is first of all the result of improved collaboration on the part of all States which, through actions of NATO, and more specifically those of SFOR and KFOR, have demonstrated their sustained cooperation with the Tribunal. This advance can be accounted for also by the cooperation of the Balkan States, in particular the entities of the Republic of Bosnia and Herzegovina and, more recently, the Republic of Croatia.[18] The Government of Croatia has moreover shown publicly that it wishes to cooperate more in arrests of accused persons and in the search for evidence. When they visited the Tribunal, Prime Minister Dodik and Vice-President Šarović of Republika Srpska also expressed their intention to collaborate with it.

158. However, 27 accused are still at large. Some of them even hold political office with complete impunity. Mr. Milošević and Mr. Ojdanić remain in power in the Federal Republic of Yugoslavia, whose authorities refuse to recognize the Tribunal's jurisdiction. Mr. Karadžić and Mr. Mladić have not yet been apprehended even though they were indicted five years ago.

1. Request of the Prosecutor pursuant to rule 7 *bis* (B) dated 28 July 1999

159. On 28 July 1999, pursuant to rule 7 *bis* (B), the Prosecutor requested that the President make a finding that the Republic of Croatia had failed to comply with its obligations to the Tribunal and to notify the Security Council of this. In support of her request, the Prosecutor cited the fact that Croatia had refused to recognize the jurisdiction of the Tribunal in "Operation Flash" and "Operation Storm" on its territory. The Prosecutor also stated that Croatia had refused to transfer the accused Naletilić to the Tribunal and to provide evidence and other information requested previously.

160. On 25 August 1999, the President of the Tribunal held that Croatia had in fact failed to comply with its obligations pursuant to article 29 of the Statute in respect of the Tribunal's jurisdiction and of Naletilić's transfer. The President notified the Security Council accordingly.

161. On 22 September 1999, the Minister of Justice of Croatia sent a letter of justification to the President of the Security Council. To clarify the record, the President of the Tribunal sent a letter on 27 September 1999.

162. On 21 March 2000, the Croatian authorities agreed to transfer Naletilić to The Hague. Subsequently, the new Government recognized the Tribunal's jurisdiction over operations "Storm" and "Flash". It also forwarded many documents to the Prosecutor.

163. More recently, the Republic of Croatia signed an agreement with the United Nations for the establishment of a liaison office for the Tribunal in Zagreb.

164. In the light of the improved relationship between the Tribunal and Croatia, the President informed the Croatian authorities that "once all pending requests for cooperation have been met, I shall be sure to inform the Security Council that Croatia has complied with all its obligations to the Tribunal".[19]

2. Refusal to issue a visa to the Prosecutor for travel to the Federal Republic of Yugoslavia[20]

165. The Minister for Foreign Affairs of the Federal Republic of Yugoslavia announced on 16 June 2000 that the Prosecutor of the Tribunal should be deemed a NATO official and that, consequently, she could not enter the sovereign territory of the Federal Republic of Yugoslavia.

3. Other aspects of cooperation

166. On 17 May 2000, after having verified the accuracy of the rumour that Dragoljub Ojdanić, Minister of National Defence of the Federal Republic of Yugoslavia, the subject of an indictment and an arrest warrant, had taken part in an official parade in Moscow without the Russian authorities arresting him, the President of the Tribunal wrote to the Ambassador of the Russian Federation to the Netherlands and requested an explanation.

167. On 24 May 2000, President Jorda received Ambassador Khodakov of the Russian Federation at his request. Ambassador Khodakov first confirmed that the accused Ojdanić had been in Moscow between 7 and 12 May 2000. He then explained that the accused's presence there was attributable to a dysfunction within the Federation and that measures had been taken to preclude a similar incident. Ambassador Khodakov confirmed his Government's resolve to collaborate with the Tribunal in accordance with the relevant resolutions of the Security Council and pursuant to article 29 of the Statute.

III. Office of the Prosecutor

A. Overview

168. During the reporting period, the Office of the Prosecutor was engaged in intensive investigative work in Kosovo, once access to the territory became possible following the end of the NATO air campaign. On 12 June 1999, Tribunal investigators entered Kosovo with NATO KFOR troops. A few days later, forensic teams seconded to the Tribunal by Member States began arriving in Kosovo to carry out exhumations of human remains from mass graves and scenes of crime investigations throughout Kosovo. The scale and pace of work was unprecedented. A record number of witnesses, 3,066, were interviewed between June 1999 and February 2000. In order to accomplish this work, temporary bases of operation were established in Tirana, Albania, Pristina, Kosovo and Skopje, the former Yugoslav Republic of Macedonia. In Bosnia and Herzegovina, investigative work continued, including forensic programmes. Twenty-four search warrants were executed, resulting in the seizure of both documents and weapons.

169. Trial work and appellate work have each increased dramatically in the reporting period. The Office of the Prosecutor was actively engaged in prosecuting seven trials (*Kordić/Čerkez, Kupreskić, Jelisić, Blaškić, Kunarac, Kvočka* and *Krstić*) and in preparing an additional nine trials (*Boseki Šamac, Keraterm Camp, Krnojelac, Brdjanin/Talić, Tuta/Stela, Galić, Vasiljević, Krajišnik* and *Nikolić*). The active trials involve 18 individuals and the trials in preparation 13 individuals. Post-judgement appeals involved seven cases (*Tadić, Čelebići, Furundžija, Aleksovski, Jelišić, Kupreskić* and *Blaškić*). As of

March 2000, there were four trials running concurrently. The most significant arrest to date (that of Momčilo Krajišnik) was made by SFOR troops on 3 April 2000. Krajišnik is considered to have been second in rank to Radovan Karadžić in the Republika Srpska. He served as President of the Bosnian Serb Assembly from 1991 to 1995 and is charged with genocide, crimes against humanity, violations of the laws and customs of war and grave breaches of the Geneva Conventions.

170. Over the reporting period, 10 accused (Brdjanin, Kovač, Dusan, Galić, Vuković, Vasiljević, Prcać, Krajišnik, Nikolić and Sikirica) were detained by SFOR troops in Bosnia and Herzegovina. In addition, the Austrian authorities arrested Momir Talić in Vienna, while Vinko Martinović and Mladen Naletilić were both transferred to The Hague from Croatia at the request of the Prosecutor. A total of 13 accused have been apprehended and/or transferred during the reporting period. Brdjanin, Talić, Galić, Vasiljević and Krajišnik had been charged on sealed indictments.

171. After three years in office, Justice Louise Arbour (Canada) stepped down as Prosecutor to assume an appointment as a judge in the Supreme Court of Canada. Mrs. Carla Del Ponte (Switzerland) assumed the position of Prosecutor on 15 September 1999.

B. Investigative activity

1. General

172. The Prosecutor's investigative strategy reflects the fundamental purpose of the Tribunal, namely to help achieve the restoration and maintenance of international peace and security in the Balkans. The Tribunal's contribution is unique and central to the process. The prosecution and punishment of those responsible for the most serious violations of international humanitarian law in the former Yugoslavia achieves two crucial objectives: first, it directly addresses the immediate issues of individual responsibility and criminal justice; and second, by imprisoning those hard-line extremists whose continuing political and military involvement serves to hinder the creation of a lasting peace, it consequently improves the conditions for the rebuilding of a multi-ethnic society in the region.

173. Most of the work to establish what is called the "crime base" has now been done by the Prosecutor's multidisciplinary teams (comprising prosecutors, police, criminal and military analysts, linguists and historians). In other words, the extent and character of the main criminal activity has been largely identified across the whole of the territory of the former Yugoslavia and throughout the entire period covered by the Tribunal's jurisdiction. The Prosecutor is now in a position to establish where and when the worst crimes were committed during the conflict. The Office of the Prosecutor has also carried out much sophisticated analysis of military and civilian command structures. The universe of high-ranking suspects is rapidly being charted. In terms of indictments, the Prosecutor's focus is mainly upon those individuals holding the highest levels of responsibility, namely the political, military, police and civil leaders. Indictments are presented by the Prosecutor when there is sufficient evidence to bring a successful prosecution against such leaders. Some very senior figures have now been indicted by the Prosecutor.

174. Against the above background, therefore, the Prosecutor now is able to make a reasonable estimate of the amount of investigation work that remains to be done by the Office of the Prosecutor. Until the establishment of the known crime base, any estimate of the outstanding workload would have been premature and unreliable. By taking the geographical areas in which serious crimes involving the highest numbers of victims are now known to have been committed and selecting appropriate targets at the levels described, the Prosecutor is able to calculate that, provided that no new areas of conflict arise in the former Yugoslavia, 36 investigations must be completed before the Prosecutor is able to report to the Security Council that the investigation part of her mandate is completed. Of these, 24 investigations have commenced and 12 have yet to be begun.

175. By the end of 2004, each of these investigations will have reached the stage where a decision can be made whether or not to prepare a trial-ready indictment. In other words, the Office of the Prosecutor is still in its main phase of its investigative activity, and will remain so engaged for another 4 to 5 years before the Prosecutor can report that her investigative mandate has been fully discharged.

176. For the first half of the reporting period, the Investigations Division dedicated the majority of its staff to the Kosovo investigation. Immediately following the end of the NATO air campaign, Tribunal

investigators entered Kosovo. The focus of the work was to support the existing charges in the *Milošević* indictment (confirmed on 24 May 1999) through additional witness interviews and examination of crime scenes including mass graves, and to bring additional indictments against others. The scope of the work and expertise needed to conduct crime scene examinations and mass grave exhumations was beyond the means of the Office of the Prosecutor. Therefore, authorization was sought from the Secretary-General to request assistance of gratis personnel from Member States. In total, 14 States (Belgium, Canada, Denmark, Finland, France, Germany, Iceland, Luxembourg, Netherlands, Norway, Spain, Switzerland, United Kingdom and United States) responded by contributing forensic teams, which were composed of experts numbering from 1 to 85 members.

177. In the second half of the reporting period, a major effort was made to make up for the work undone owing to the redeployment of resources to Kosovo. Record numbers of missions and witness interviews were carried out in the first part of 2000. At the same time, as a result of a major donation to the Voluntary Trust Fund from the United States, Kosovo work was intensified and several projects related to Kosovo were able to be initiated.

178. A new initiative was undertaken in the Investigations Division following the confirmation of the indictment of Slobodan Milošević. The *Milošević* indictment contained an order to all States to make inquiries to discover whether the accused had assets located in their territory, and if so, to freeze such assets until the accused was taken into custody. Although more resources are required, a small, specialized unit has been established to focus on asset tracking.

2. Exhumations: 1999-2000

(a) Bosnia and Herzegovina, Croatia

179. The Prosecutor has carried out a programme of exhumation of human remains from mass graves in Bosnia and Herzegovina since 1996. Forensic investigation allows the scientific collection and documentation of evidence for purposes of trial and enables the corroboration of witness testimony. In 1999, the Office of the Prosecutor continued to locate and exhume bodies in mass graves associated with the fall of Srebrenica and deaths in the detention camps of Prijedor. In addition to the field team exhuming the mass graves, a separate mortuary team carried out post-mortem examinations on the bodies recovered. The work around Srebrenica in 1999 was related entirely to primary grave sites, unlike 1998 when secondary sites were the main focus. The sites explored were: Kozluk, Nova Kasaba, Konjević Polje and Glogova. In all, 838 bodies and partial remains were recovered from the four sites. One additional site in Bosnia and Herzegovina was exhumed at Kevljani where 172 bodies and partial remains were recovered. For 2000, it is planned to exhume one grave site in Croatia and five sites in Bosnia and Herzegovina. Work started in April.

(b) Kosovo

180. In 1999, the crime scene and exhumations programme in Kosovo was carried out entirely by gratis personnel with assistance from KFOR and UNMIK. The teams worked for four months. Priority for sites was based on a number of factors, including the *Milošević* indictment, exposed bodies, alleged numbers, personnel security and accessibility of the sites. The work in Kosovo was significantly different from the work previously done in Bosnia and Herzegovina. The exhumations were mainly of known sites where local communities had knowledge of the graves and the identities of the human remains. Initial results from the work were made public by the Prosecutor to the Security Council in November 1999. She reported that work had been completed at 195 of 529 identified grave sites and that 2,108 bodies had been exhumed. As final reports from the forensic teams were submitted to the Office of the Prosecutor, those numbers were updated in January when the Prosecutor addressed the North Atlantic Council. At that time, she reported that work on 246 grave sites had been completed and that 2,730 bodies had been exhumed and examined.

181. The programme for 2000 will be to continue the work started in 1999. Support for the existing indictment will require the examination of an additional 60 sites. In addition, an effort will be made to satisfy the interest of the international community in establishing a final, credible death toll for Kosovo. In order to attempt to achieve this wider goal, the Prosecutor again requested the use of gratis personnel. As in Bosnia and Herzegovina, work began in April 2000.

3. Indictments

182. The policy of sealing indictments to facilitate arrests has resulted in only a few indictments being issued publicly in recent years. However, during the reporting period, four sealed indictments have been made public after the arrests of the accused. An indictment confirmed on 14 March 1999 was unsealed at the time of the arrest of Radoslav Brdjanin. He and a co-accused, Momir Talić, arrested in Austria on 25 August 1999, are charged with "persecution" of non-Serbs in the Autonomous Region of Krajina (ARK). They are alleged to have been core members of the ARK Crisis Staff and as such to have coordinated and implemented "ethnic cleansing" in the Krajina region of Croatia. A second sealed indictment, confirmed on 26 March 1999, was revealed with the arrest of Stanislav Galić. The *Galić* indictment contains charges related to the "siege" of Sarajevo, including the shelling of the city and sniping, all designed to kill, maim, wound and terrorize the civilians of Sarajevo. A third indictment was made public with the arrest of Mitar Vasiljević. That indictment, which was confirmed in August 1998, brings charges, including that of persecution, related to events in Višegrad from 1992 to 1994 against Bosnian Muslim civilians. Finally, on 3 April 2000, with the arrest of Momčilo Krajišnik, an indictment, confirmed in February 2000, was unsealed charging, *inter alia*, genocide, complicity in genocide, extermination and murder. The accused are charged with planning, instigating, ordering, committing, aiding and abetting the planning, preparation or execution of the destruction of the Bosnian Muslim and Bosnian Croat national, ethnical, racial or religious groups in many municipalities in Bosnia and Herzegovina. The events cited in that indictment allegedly took place between 1 July 1991 and 31 December 1992. This brings the number of indictments made public to 28, involving 97 individuals. It might also be noted that, in March 1999, the Prosecutor revealed that Željko Raznjatović (Arkan) had been indicted by the Tribunal. She did not, however, make public the indictment itself. When Arkan was assassinated in January 2000, the Office of the Prosecutor decided that the indictment would remain sealed for reasons of security.

C. Cooperation and assistance in the territory of the former Yugoslavia

1. SFOR and KFOR

183. Working relationships with organizations in the territory of the former Yugoslavia continue to be essential to the success of the Prosecutor's mandate. This is evident in the assistance given by SFOR troops to the Prosecutor through the provision of security to the Prosecutor's investigations and execution of search warrants, but most significantly through the apprehension of indicted accused in Bosnia and Herzegovina. The practice of sealing indictments has proved to be the key factor enabling SFOR to undertake the apprehension of indictees without undue risks to accused persons and to its own personnel. During the reporting period, 10 accused were detained by SFOR: 6 July 1999, Radoslav Brdjanin; 2 August 1999, Radomir Kovac; 25 October 1999, Damir Došen; 20 December 1999, Stanislav Galić; 23 December 1999, Zoran Vuković; 25 January 2000, Mitar Vasiljević; 5 March 2000, Dragoljub Prcać; 3 April 2000, Momčilo Krajišnik; 21 April 2000, Dragan Nikolić; and 25 June, Duško Sikirica.

184. In 1999, the Office of the Prosecutor was assisted immeasurably by KFOR. Assistance and cooperation with the ICTY was made a priority by KFOR and has been evident from the initial entry into Kosovo until the present day. In particular, KFOR found and secured the sites of mass graves, provided aerial surveillance of reported mass grave sites and generously gave logistical support to staff of the Tribunal.

2. United Nations missions and others

185. Cooperation with the United Nations Mission in Bosnia and Herzegovina and the Office of the High Representative in Sarajevo continues to produce results. In Kosovo, a modest programme of assistance to the United Nations Interim Administration Mission in Kosovo (UNMIK) in its programme for local prosecutions of war crimes has been established by the Tribunal through a trust fund donation. The objective is to facilitate war crimes cases before the UNMIK court by reviewing cases, assessing the evidence and providing an opinion as to whether the evidence is sufficient by international standards to justify further proceedings. Administrative support arrangements with UNMIK have permitted a smoother running of the many operations in Kosovo.

186. During the 1999 exhumation programme in Kosovo, identification procedures, family contact, registration of deaths, disposal of mortal remains and other related subjects became important as refugees returned to the area. In addressing these issues with the Organization for Security and Cooperation in Europe

(OSCE) and UNMIK, it was felt that UNMIK as the civil administration for Kosovo should take a proactive approach and undertake a coordinating role. To that end, representatives of the Office of the Prosecutor have participated in a consultation role in the formation of a Victim Recovery and Identification Commission. This body will undertake a number of tasks, including recovery and identification, disposition of mortal remains, family support, data management of associated information and related legal issues. The Office of the Prosecutor has a significant role to play in this initiative during 2000.

3. "Rules of the Road"

187. In Rome, on 18 February 1996, the parties to the General Framework Agreement for Peace in Bosnia and Herzegovina agreed on measures to strengthen and advance the peace process (Dayton Agreement). The parties agreed that "persons other than those already indicted by the International Tribunal may be arrested and detained for serious violations of international humanitarian law only pursuant to a previously issued order, warrant, or indictment that has been reviewed and deemed consistent with international legal standards by the international Tribunal". This is the framework for the "Rules of the Road" project. There is still a compelling need for an arrangement of this kind in Bosnia and Herzegovina, and the scheme continues in operation.

188. An established and stable unit now exists in The Hague to review cases submitted by local prosecutors in Bosnia and Herzegovina. Funding is provided by voluntary contributions from several States, which have been approached for this purpose by the Office of the High Representative. Cases continue to be submitted to the unit and there is no sign of any decrease in the number of new files being received. This may be a result of a decision by the Supreme Court of the Federation of Bosnia and Herzegovina in Sarajevo ruling the "Rules of the Road" agreement to be legally binding on all courts within the Federation. This significant decision appears to have had a considerable effect in generating cases for review.

189. As at the end of March 2000, of 471 recorded files, 210 have been reviewed. The situation, although considerably better than in previous years, is still far from satisfactory, and the main target for the project now and in the future is to reduce the number of outstanding cases and to make a significant improvement in the time taken to review files once they are received.

D. Other activities

190. The Prosecutor has travelled to many European States, particularly those bordering the former Yugoslavia. By doing so, she has sought to enhance cooperation with the Office of the Prosecutor and to express her concerns about the lack of willingness to arrest those at levels of the highest responsibility. The Prosecutor met with high-level officials in Albania, Belgium, Bulgaria, France, Germany, Hungary, Italy, Slovenia, Turkey, Romania, the former Yugoslav Republic of Macedonia, the United Kingdom and the United States. Two trips throughout the region of the former Yugoslavia were also conducted, during which the Prosecutor visited her field offices and met with government officials. The Prosecutor has continued the well-established working relationships with NATO officials at Supreme Headquarters, Allied Powers Europe (SHAPE) and has pressed vigorously for arrests of high-level accused. She also addressed the Security Council on two separate occasions and has spoken about her work at both Tribunals.

191. Cooperation with the Federal Republic of Yugoslavia has not improved during the reporting period. The Embassy of the Federal Republic of Yugoslavia at The Hague continues to refuse any contact with the Tribunal. On the other hand, relations with Croatia since the change in government have shown very positive signs of improving. For instance, a Headquarters Agreement was concluded for the Office of the Prosecutor's Zagreb office almost immediately following the elections in January, and in March, Mladen Naletilić ("Tuta") was transferred to The Hague following months of delay by the previous regime; a request to exhume a mass grave at Gospić where Croats allegedly had killed Croatian Serbs in 1991 was complied with; and access to various archives in Croatia has been made possible. Significantly, the new Government has acknowledged the Tribunal's jurisdiction over crimes which were allegedly committed in Croatia by Croatian forces (including operations "Flash" and "Storm").

192. Allegations that NATO violated international humanitarian law during the air campaign in Kosovo in 1999 were submitted to the Prosecutor from a number of sources, including lawyers acting on behalf of the

Federal Republic of Yugoslavia and a Russian Parliamentary Commission. Since the Tribunal has jurisdiction over all potential war crimes in the former Yugoslavia, the Prosecutor considered that it was her obligation and responsibility as an independent Prosecutor to assess the complaints and allegations. A working group, established in May 1999 by the former Prosecutor, comprising military lawyers, military analysts and other experts to examine and assess all complaints and allegations and accompanying material, undertook to examine the material. Following a full consideration of all complaints and allegations, the Prosecutor concluded that there was no basis for opening an investigation into any of these allegations or into other incidents related to the NATO bombing. She further concluded that although some mistakes were made by NATO she was satisfied that there had been no deliberate targeting of civilians or unlawful military targets by NATO during the bombing campaign.

193. An advocacy training course was held in March 2000 for 24 prosecutors in the Office of the Prosecutor. The trainers, from the United Kingdom, donated their time to the Office of the Prosecutor. An exchange programme for case managers in both International Tribunals was implemented during the reporting period and proved to be extremely beneficial to all staff involved. Procedures, working methods and exposure to different work environments were among the topics discussed.

194. The Office of the Prosecutor has an extensive evidence collection that is undoubtedly now the largest collection of documents related to the conflict in the territory of the former Yugoslavia in the world. As of March 2000, the collection numbered just over 1.5 million pages, with a 185,000-page backlog waiting to be processed. Unfortunately, there are also an unacceptable number of documents in the collection that have yet to be translated before further work can proceed.

E. Strategy for the future

195. To achieve a lasting peace and bring an end to the cycles of violence in the Balkans, it will be essential for the ordinary citizens of the region of the former Yugoslavia to be satisfied that justice has been achieved. History has sadly taught that unless a reasonable level of such satisfaction is achieved, ordinary citizens will feel obliged to take justice into their own hands. They will seek justice not otherwise achieved. What is more, any sense of injustice is likely to be transmitted to the next generation and it is possible that the injustices of today could be the cause of future conflicts in the Balkans. Here the Tribunal can play an important part in ending such cycles of violence. It is the Prosecutor's firm belief that the conflict in the territory of the former Yugoslavia was sparked and fuelled by greedy and power-hungry politicians who used propaganda and nationalistic sentiments to create an atmosphere of fear and terror, which was then used to motivate ordinary citizens to commit atrocious crimes against their neighbours. If ordinary citizens can accept that this was the root cause of the conflict, and that they were led into this terrible conflict by deceit and fear, they may be more likely to accept a meaningful reconciliation with their neighbours, who were also led in the same way into the conflict. By prosecuting the leaders, even down to the municipal level, the Tribunal can lay this foundation for reconciliation. Lower-level perpetrators will still have to be dealt with, but this can take many forms, such as local/domestic prosecutions, or even, in the future, some sort of truth and reconciliation process. A lasting and stable peace, however, cannot be achieved unless the Tribunal plays the important role of prosecuting the leaders of all sides to the conflict who were responsible for the commission of crimes falling within its jurisdiction.

IV. The Registry

196. The Registry of the Tribunal continued to exercise court management functions and provide administration and service to the Chambers and the Office of the Prosecutor. In addition, it provided information to the media and the public, administered the legal aid system under which it assigns defence counsel to indigent accused, supervised the United Nations Detention Unit and maintained diplomatic contacts with States and their representatives, particularly in relation to the negotiation of agreements for cooperation with the Tribunal. Operating under the supervision of the Registrar, the Deputy Registrar and the Chief of Administration, the Registry continued to adopt innovative approaches to its diverse and increased tasks.

A. Office of the Registrar

1. Registry Legal Advisory Section

197. The Registry Legal Advisory Section continued to provide legal advice to the Registrar, the Chief of Administration and other senior officials of the Tribunal on the interpretation and application of legal instruments regarding status, privileges and immunities of the Tribunal, international agreements with the host country and other States, administrative legal issues, commercial contracts and specific research projects for the Trial Chambers.

198. During the reporting period, the Section conducted extensive discussions with the host country regarding the scope and application of the Headquarters Agreement and was instrumental in the conclusion of agreements by the Registry with the host country for the provision of additional cells to the United Nations Detention Unit and the provision of forensic services. Further legal support was provided in negotiations with individual States on enforcement of sentences and relocation of witnesses, leading to the conclusion of agreements on enforcement of sentences with three additional Member States and bringing the total number of enforcement agreements to seven. With regard to the ongoing investigations in Kosovo, the Section was involved in the conclusion of Memoranda of Agreement regarding the provision of forensic experts with 12 Member States, and continuous legal support was given in connection with the establishment of temporary operational bases and field missions in Croatia, Bosnia and Herzegovina and Kosovo. The Registry Legal Advisory Section also assisted in the conclusion of numerous specialized commercial contracts, including the lease of additional office premises in The Hague. Research projects of the Section encompassed various areas of international and comparative law, including issues of confidentiality and compensation.

2. Public Information Section

199. During the reporting period, the Public Information Section benefited fully from its reorganization, implemented between the summer of 1998 and the spring of 1999. Its four working units (Press Unit, Legal Unit, Publications and Documentation Unit, and Internet Unit) have succeeded in addressing an ever expanding public curiosity.

200. In this regard, it should be noted that the public's exposure to the Tribunal has broadened both in size and in scope. While the activities of the Office of the Prosecutor received even more attention, court proceedings before the Chambers and institutional issues raised by the President attracted an unprecedented level of interest.

201. In the light of these developments, it is the assessment of the Section that the reporting period was marked by the firm establishment of the Tribunal's overall credibility as a mature legal body whose prosecutorial activities, judicial achievements and moral impact are in line with its mandate and historic mission.

202. It is also the Section's view that the interest from the media, diplomatic and legal communities as well as from the public at large in the work of the Tribunal has merely begun to reach its potential: it will definitely be sustained and will likely continue to grow. A clear area of potential growth concerns the countries of the former Yugoslavia, where public attention to the Tribunal, by politicians and press, has dramatically increased. This underscores the importance of the Outreach Programme, which was established during the reporting period.

203. The public information operations conducted by the four units of the Public Information Section can be summarized as follows.

(a) Press Unit

204. Following the establishment of the position of Spokesperson within the Office of the Prosecutor, the Head of Press Unit/Tribunal Spokesman now focuses on matters concerning the Registry and Chambers. This duality of "official voices" has resulted in a clearer distinction between the mandates of the various organs comprising the Tribunal and in a more balanced press coverage of their respective work.

205. More generally, the Press Unit was responsible for media relations, media logistics and media monitoring. Through press releases, press briefings, press advisories, background discussions and interviews with the Tribunal Spokesman or with the Spokesman for the Office of the Prosecutor, the Unit entertained a monthly average of 3,000 press contacts. This included the arrangements for a monthly average of 25 interviews with the President, the Prosecutor, judges and other senior officials.

(b) Legal Unit

206. Established in late 1998 to increase the Section's capacity to produce and disseminate legal information materials, the Legal Unit assumed its full shape during the reporting period.

207. It has begun producing a number of information sheets on outstanding indictments, ongoing trials and pre-trial cases. The Unit has also reshaped the weekly update (including a factual overview of court proceedings, a list of court documents recently made public and the announcement of the court schedule) which is published every Friday, distributed to members of the press and diplomatic community and posted on the Internet. The Legal Unit has also continued to produce a monthly Judicial Bulletin, in which most of the rulings of the Chambers are summarized and analysed, and which is distributed as widely as possible.

(c) Publications and Documentation Unit

208. The Publications and Documentation Unit undertook an in-depth review of the procedure and mailing list for the distribution of legal materials made public by the Registry. At the end of the reporting period, 864 individuals or organizations were on the general distribution list while 98 others (a majority of them law libraries, international law centres, universities and international organizations) were recipients of a dedicated weekly collection of legal documents.

209. The Unit also conducted a newly established publications programme. It published the 1997 and 1998 *Yearbooks* in the two official languages of the Tribunal and organized the publication, by Kluwer Law International, of the first two volumes (1994-1995) of the *Judicial Reports*, the only official compilation of the Tribunal's indictments, decisions and judgements. The volumes covering the year 1996 were in press as of this writing while preparations were being finalized for the volumes covering the year 1997.

210. The Unit was also responsible for making internal arrangements for official visits to the Tribunal by senior representatives of States or Governments as well as for running a programme of informative/educational visits to the Tribunal by various groups including students: 10 official visits were hosted during the reporting period and 112 groups representing 2,374 visitors were welcomed.

(d) Internet Unit

211. In spite of a number of technical or software difficulties, the Internet Unit successfully maintained the Tribunal homepage (www.un.org/icty), which has definitely proved to be a major tool for disseminating documents from and information on the Tribunal. During the reporting period, the page was consulted by a monthly average of approximately 90,750 people (as compared with approximately 65,000 people during the first semester of 1999).

212. This figure reflects the general increase in public curiosity about the Tribunal, but also appears to be the result of specific factors. The Internet Unit has been able to keep the home page updated on an ongoing basis with the filing of 1,211 new legal documents. The practice has also developed of releasing the full text of judgements, accompanied with a press release and a summary, within minutes of the completion of the hearings: on days when judgements are issued, thousands of interested people access the Tribunal's home page.

3. Outreach Programme

213. In September 1999, an Outreach Programme was established to improve understanding of the work of the Tribunal and its relevance in the territory of the former Yugoslavia. The programme, with offices in The Hague, Banja Luka, Sarajevo and Zagreb, strives to ensure that the Tribunal's activities are transparent and accessible to the communities of the former Yugoslavia.

214. By providing timely and accurate information on the Tribunal in languages of the region, the programme aims to enhance comprehension of the Tribunal's mandate and performance and to counter misperceptions and inaccurate information being circulated. In this regard the programme has made available translated versions of key judgements and decisions as well as basic documents of the Tribunal, including all information sheets and press releases.

215. Moreover, in conjunction with the Press and Information Section, the Outreach Programme has established and maintained a comprehensive Bosnian-Croatian-Serbian (BCS) web site. The programme also facilitates the live audio broadcast on the Internet of all public court sessions of the Tribunal in English and BCS and provides extensive support for the launch and continuation of an independent weekly BCS television

programme on the Tribunal which is broadcast across the territory of the former Yugoslavia.

216. The Outreach Programme seeks to establish close contacts between the Tribunal and regional organizations, developing networks of groups and individuals. It engages with local legal communities and non-governmental organizations, victims associations and educational institutions. Existing links with international and non-governmental organizations operating in the region have been strengthened to create a two-way channel of communication. In this regard the Programme has organized in full, or in part, several symposia and workshops on the activities of the Tribunal. Such events in Bosnia and Herzegovina (both entities), the Republic of Croatia, the Republic of Montenegro and The Hague have been attended by senior officials of the Tribunal, including the President, and have been well received. Additionally, the programme has established an extensive mailing list for regional organizations to receive material of the Tribunal and has provided mini-archives of Tribunal publications for numerous libraries and institutions in the Balkans. In collaboration with the Audio-visual Unit and the Press and Information Section, the programme has commenced production of a video documentary on the Tribunal to be distributed as an informational tool throughout the territories of the former Yugoslavia.

217. The programme endeavours to emphasize that the Tribunal works as an agency of reconciliation in south-eastern Europe to secure the rule of law for the benefit of all citizens of the region.

218. Since its inception, the programme has been funded through voluntary contributions. In this respect, the support of Finland, the Netherlands, the United Kingdom and the United States of America, together with the John D. and Catherine T. MacArthur Foundation (Chicago, United States), are acknowledged.

219. It is proposed that the Outreach Programme should be made part of the main Tribunal budget for 2001.

4. Security and Safety Section

220. Under the budget for 2000, the Security and Safety Section grew to a total of 128 staff and officers, representing 27 nationalities. All officers have previously served in the military or police force of their respective countries. The responsibilities of the Service expanded dramatically in the summer of 1999 with the provision of security for the exhumation teams in Kosovo, the temporary base of operations in Tirana and the new field offices in Skopje and Pristina. Additionally, in April 2000, the Tribunal occupied a second administrative building, requiring a similar security regime to that in place in the main Tribunal premises.

5. Victims and Witnesses Section

221. The Victims and Witnesses Section is responsible for the recommendation of protective measures for witnesses who appear before the Tribunal. It also provides witnesses with counselling and support. The Section, in close cooperation with a number of Member States, is also responsible for the relocation of witnesses who, for reasons of personal safety, cannot return to their homes after completing their testimony. In addition, the Section is charged with making travel, accommodation, financial and administrative arrangements for the movement and appearance of all witnesses, for both the prosecution and the defence.

222. At the end of the reporting period, the Victims and Witnesses Section consisted of 6 Professional and 17 General Service staff members.

223. The Section has steadily expanded its contacts and cooperation with the relevant authorities in a number of Member States as well as with the host country. In that respect, cooperation on the part of States and the host country continues to be of invaluable assistance to the operation of the Section.

224. At the end of the reporting period, the Victims and Witnesses Section will have assisted approximately 430 witnesses or related persons. In the first two quarters of 2000 there has been a 100 per cent increase in the number of witnesses over the same period in the previous year.

B. Judicial Support Services Division

225. The main activities of the Division include those of the following sections and groups.

1. Court Management and Support Services

226. The Court Management and Support Services Section continued to carry out its preparatory and organizational support tasks for the conduct of

courtroom hearings. This included receiving documents filed during the hearings and handling exhibits, preparing procedural minutes, maintaining and updating the calendar of scheduled hearings, coordinating the schedules and use of courtroom facilities, filing, indexing and distributing all case documents, maintaining the Tribunal's record book, and managing transcripts of all hearings.

227. During the reporting period, the workload of the Section grew considerably owing to the increase in the number of cases being tried or heard on appeal concurrently. Furthermore, the Trial Chambers regularly heard evidence given by videoconference and oral testimony. The Section also supervised testimony presentation.

228. The Section worked on improving internal and external access to non-confidential documents by creating an electronic archiving system. To improve the existing information exchange between the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, a court deputy based in The Hague will be responsible for facilitating the filing of documents for the Rwanda Tribunal.

2. Office of Legal Aid and Detention Matters

229. The former Defence Counsel Unit has become the Office of Legal Aid and Detention Matters. The Office continues to deal with matters raised by defence counsel and the legal aspects of questions relating to the United Nations Detention Unit.

230. A proposal to amend the Directive on the Assignment of Defence Counsel (the Directive) and the relevant provisions of the Rules of Procedure and Evidence were discussed at the plenary session held on 13 and 14 July 2000. Most of the amendments relate to those provisions governing verification and determination of whether the applicant is indigent as well as the assignment and dismissal of defence counsel within the Tribunal's legal aid system. A draft amendment to the Code of Professional Conduct is also being drawn up. The Office of Legal Aid and Detention Matters continued to maintain a list of defence counsel with the necessary requirements to be assigned to indigent accused or suspects. Lawyers continue to be interested in being placed on the list, which contained 350 names at the end of the reporting period.

231. A meeting of the Advisory Panel, the consultative body on defence counsel matters pursuant to article 32 of the Directive, is scheduled for late August or early September 2000 at the seat of the Tribunal further to its June 1999 meeting.

232. The Office of Legal Aid and Detention Matters submitted a proposed amendment to the remuneration scheme for defence counsel assigned by the Registry. The implementation of this reform was challenged by several defence counsel in a motion to the Bureau. The Bureau responded that it had no power to rule on the question but did, however, request the Registrar to suspend the new remuneration scheme and to refer the question to the plenary for discussion.

3. United Nations Detention Unit

233. Because of the increasing number of arrests during the reporting period, 12 additional cells, together with an additional area for visits and administrative services, were made available to the Tribunal. Furthermore, the Tribunal is in the process of negotiating the provisions of a new agreement with the authorities to increase the current capacity of the Unit, which now stands at 48.

234. The staff of the Detention Unit has been increased with the arrival of 57 guards from the Netherlands prison service, one seconded guard from the Government of Austria and three guards from Denmark.

C. Administration

1. Budget and Finance

235. At its 92nd plenary meeting on 18 December 1998, the General Assembly adopted resolution 52/217, in which it decided to appropriate to the Special Account for the Tribunal for the Former Yugoslavia a total amount of $94,103,800 net ($103,437,600 gross) for the period from 1 January to 31 December 1999.

236. The number of authorized posts for the period was 784.

237. Expenditure for the year against the appropriation totalled $79,981,900 net ($88,941,900 gross), resulting in savings of $14,820,500 net ($14,488,500 gross), which represented 14 per cent of the above appropriation.

238. On 1 November 1999, the Secretary-General submitted his report on the financing of the Tribunal (A/54/518), which contained the proposed requirements for 2000. These amounted to $100,251,100 net, including 98 additional staff posts.

239. The Advisory Committee on Administrative and Budgetary Questions, in its report dated 2 December 1999 (A/54/645), recommended the appropriation of an amount of $95,942,600 net ($106,149,400 gross).

240. At its 88th plenary meeting, on 23 December 1999, the General Assembly, on the recommendation of the Fifth Committee (see A/54/678), adopted resolution 54/239, in which it approved the appropriation of $95,942,600 net for the Tribunal for the period from 1 January to 31 December 2000.

241. The total number of approved staff posts for this period now stands at 848.

2. Human Resources Section

242. By the end of the reporting period, the Human Resources Section will administer more than 1,050 staff members, 390 of whom are international staff. Nearly 8,000 applications were processed during the period, representing an increase of 25 per cent in the volume of applications over the previous period. Seventy-one nationalities are represented among the staff; the percentage of women is 36 per cent in the Professional category and 43 per cent for all staff. A total of 30 other personnel (mostly interns) provided services to the Tribunal. The number of short-term appointments (court reporters and conference interpreters) for the period totalled 260. The number of special service agreements processed in the reporting period (field interpreters, expert witnesses, exhumations project, witness assistants) totalled 770.

3. Conference and Language Services Section

243. The ever increasing requirements for language-related services, in translation, consecutive and simultaneous interpretation, placed an extremely heavy burden on the existing resources of the Section, which were stretched to the limit. To ensure a timely and efficient response to various demands, the Section had to draw heavily on outside contractors and to continue at the same time its search for qualified professional staff willing to work in The Hague. This entailed organizing several competitive examinations in translation and interpretation both at The Hague and abroad. The novelty in the work of the Section has been the regular use of the Albanian language in interpretation and translation. Having to face severe competition from other international organizations also in need of Albanian-, English- and French-speaking staff, the Section dispatched several missions to the area and managed to identify a large pool of field interpreters. They have been engaged not only in interpreting witness interviews, but also in work at exhumation sites.

244. The Conference and Language Services Section continued to provide transcripts of all courtroom proceedings in English and French. In addition, it explored the possibility of finding a more cost-effective method of producing transcripts, using what is known as "off-site reporting".

245. Finally, in my capacity as President I can only regret that French, as an official language of the United Nations and a working language of the Tribunal, is under-represented, in particular with regard to internal communications.

4. Electronic Support Services and Communication Section

246. The Electronic Support Services and Communication Section provides basic infrastructure support to all divisions of the Tribunal. This support includes provision of computer, network, telephone and audio-visual services and equipment. During the reporting period, the Section responded to the increased demands for its services and supported increased courtroom activity, extensive field activities of the Office of the Prosecutor and the move of the Administrative Division to new premises. Having designed and installed the technical infrastructure to cover and broadcast the trial proceedings, the Section provided operational services to ensure that the Tribunal was able to proceed with hearings. In the field, the Section's services included the establishment of satellite communication links to each of the field offices as well as to both field morgue facilities. Finally, the close of 1999 saw the completion of the migration and upgrade of the computer network of the Office of the Prosecutor to more advanced technology, thereby providing secure and economical services for its operations.

D. Enactment of implementing legislation and enforcement of sentences

1. Enactment of implementing legislation

247. As noted in previous reports, the Tribunal relies heavily on the cooperation of all States for assistance, including the States of the former Yugoslavia. Indeed, the Tribunal operates under the assumption that States will provide full cooperation. In this context, the adoption by States of the legislative, administrative and judicial measures necessary for the expeditious implementation of the Tribunal's orders is of crucial importance and, in fact, mandatory under Security Council resolution 827 (1993). Implementing legislation usually covers matters relating to the seizure of evidence, the arrest, detention and transfer of persons indicted by the Tribunal and the enforcement of sentences.

248. During the reporting period, the Tribunal did not receive notification that any additional States had enacted implementing legislation. Therefore, at present, a total of 23 States have enacted such legislation.

2. Enforcement of sentences

249. Initial inquiries and negotiations are under way for the transfer of Mr. Tadić and Mr. Aleksovski in order to enforce their respective final sentences. The number of States having concluded agreements with the United Nations on the enforcement of sentences increased to seven after Austria, France and Spain signed agreements on the enforcement of sentences on 23 July 1999 and 25 February and 28 March 2000 respectively. The Registry is currently in the process of negotiating agreements with several other States. During the reporting period, the President and the Prosecutor endeavoured to raise the consciousness of States as to the necessity for the conclusion of further agreements on the enforcement of sentences, either on their diplomatic visits to those States or during meetings with government representatives at the seat of the Tribunal. These endeavours will continue.

E. Voluntary contributions

1. Cooperation of the host State

250. During the reporting period, the authorities of the Netherlands continued to provide excellent active support to the work of the Tribunal. Apart from the numerous forms of assistance rendered pursuant to the provisions of the Headquarters Agreement, the Government of the Netherlands made substantial voluntary contributions to the outreach, exhumations and document backlog projects of the Tribunal.

251. Other forms of cooperation and support provided by the Government of the Netherlands encompass the safety and security of the premises of the Tribunal and its staff, the provision of detention facilities and prison guards through a lease agreement and the transport and escort of detainees.

252. Nevertheless, to an increasing extent problems have been encountered as regards the implementation of parts of the Headquarters Agreement. These problems have been compounded by the fact that the International Tribunal has not been informed and consulted in a timely manner about legislation being prepared for submission to the Netherlands parliament which may affect the privileges, immunities and facilities accorded to the Tribunal and its officials and the lack of an efficient and responsive focal point within the Ministry of Foreign Affairs for relations and communications about such matters.

2. Gratis personnel provided by Governments or organizations

253. Until the end of 1999, the Tribunal benefited from the services of type II gratis personnel with expertise in fields for which human resources were not readily available with the United Nations system.

254. As a result of the events in Kosovo during 1999, requiring urgent action, the Secretary-General approved on an exceptional basis a request by the Prosecutor to accept gratis personnel on a short-term basis not exceeding six months. A total of 386 gratis personnel (total of 340 work months) were assigned to the Tribunal from Austria, Belgium, Canada, Denmark, France, Germany, Iceland, Luxembourg, the Netherlands, Spain, Sweden, Switzerland, the United Kingdom and the United States.

255. In 2000, gratis personnel were again requested by the Prosecutor to assist in completing the work in Kosovo and once again this measure was exceptionally approved on a short-term basis, not exceeding six months, by the Secretary-General. Several States have entered into formal agreements with the United Nations to make national experts available to the Tribunal

during 2000. Agreements have been signed with Austria, Canada, France and Sweden.

3. Monetary contributions and contributions in kind

256. In its resolution 47/235 of 14 September 1993, the General Assembly had invited Member States and other interested parties to make voluntary contributions to the Tribunal both in cash and in the form of supplies and services acceptable to the Secretary-General. As at 31 July 2000, the Voluntary Fund had received approximately $30.1 million in contributions to the Tribunal's activities:

Contributor	*Contribution (United States dollars)*
Austria	108 574
Belgium	74 892
Cambodia	5 000
Canada	1 457 151
Chile	5 000
Cyprus	4 000
Denmark	263 715
European Union/Carnegie Foundation	542 204
Finland	178 795
Germany	250 000
Hungary	2 000
Ireland	121 768
Israel	7 500
Italy	2 080 049
Liechtenstein	4 985
Luxembourg	194 163
Malaysia	2 500 000
Malta	1 500
MacArthur Foundation	200 000
Namibia	500
Netherlands	2 727 523
New Zealand	14 660
Norway	977 410
Pakistan	1 000 000
Portugal	10 000
Saudi Arabia	300 000
Slovenia	10 000
Sweden	461 626
Switzerland	674 516
United Kingdom	3 193 223
United States	12 755 047
Utrecht University	2 196

257. The capacity of the Tribunal to carry out its mandate was also enhanced throughout the period by several donations in kind. In 1999, IBM Corporation pledged $1.34 million for computer equipment. The Tribunal has now received two servers and 50 network computers valued at $1.3 million from this donation. The National Bar Association (United States) donated a four-year subscription to Westlaw, an online legal database, and 200 passwords valued at $250,000. The American Society of International Law has donated 28 volumes of the *American Journal of International Law* to the Tribunal library.

258. In addition, cash donations of $12.7 million and pledges totalling $2.4 million were received during the reporting period.

259. Voluntary funds were used to support over 60 personnel with the necessary equipment and supplies to exhume large-scale mass graves and to analyse the results of these exhumations. The evidence gathered was used towards the prosecution of indictees and to substantiate statements given by witnesses. Funding for exhumations enabled the purchase of vehicles, computer software, printers, scanners, specialized items such as surveying equipment, refrigerated containers and X-ray machines, communications equipment including a satellite terminal and telephone/fax machine, and supplies (photographic, X-ray, morgue, pathology, site maintenance and general office).

260. The "Rules of the Road" project produced summary translations and indices of the tens of thousands of pages of materials submitted. Funding from donors has enabled work on the "Rules of the Road" to continue throughout 1999 and 2000, covering the costs of legal, translation, research and administrative staff for the project.

261. The Document Backlog project has resulted in the indexing, coding and entry of data into databases from a backlog of evidentiary material. Funding enabled over 20 staff to be recruited and covered the cost of

office, reproduction and computer supplies for the project. The project was successfully completed at the end of 1999 and resulted in the eradication of the backlog of material.

262. Contributions were received through the Voluntary Fund to assist the Tribunal with additional tasks arising from the conflict in Kosovo. The following activities will be funded under Kosovo Operations: a Kosovo investigative team, a workload backfill project, a document exploitation project, assistance to local prosecutions and administrative, financial and interpretative support staff for the Kosovo Operations.

4. European Commission

263. The European Commission continued its support to the Tribunal library, enabling it to further develop its collection of books, legal journals and CD-based information. The acquisition of an electronic information system has enabled access to CD-based media and online legal databases. This project was carried out by the Carnegie Foundation.

V. Diplomatic relations and other representation

264. During the period 1999-2000, the President, the Judges, the Prosecutor and the Registrar met at the seat of the Tribunal or abroad with representatives of several States to discuss the objectives of the Tribunal and means of cooperation with it. Several of these meetings were with members of the Governments of States of the former Yugoslavia.

A. Direct interaction with States of the former Yugoslavia

265. On 15 September 1999, President Gabrielle McDonald met with the Minister of Justice of the Republic of Croatia, Mr. Separović, with whom she discussed cooperation with the Tribunal. On 4 February 2000, the Prime Minister of Montenegro, Filip Vujanović, visited the Tribunal and met with the Prosecutor and the Registrar.

266. As regards the Outreach Programme, the then President of the Tribunal, Judge McDonald invited Trial Chamber III (Judge May presiding, Judges Bennouna and Robinson), accompanied by its Senior Legal Officer, Yvonne Featherstone, to visit Sarajevo from 6 to 10 September 1999. The visit was organized by the Sarajevo Bureau of the American Bar Association and the Central and East European Law Institute (CEELI).

267. The purpose of the visit was three-fold: (a) to promote better understanding of the States of the former Yugoslavia by the Tribunal's judges and familiarize them with the general situation prevailing in the region; (b) to increase the judges' knowledge of the legal system of those States through meetings with the representatives of the legal, academic and student communities of all backgrounds; and (c) to support the Outreach Programme, whose goal is to raise awareness of the work of the Tribunal in the countries of the former Yugoslavia.

268. In all, six meetings were organized with almost 100 persons of all the relevant ethnic groups, including the judges of the Constitutional Court of Bosnia and Herzegovina; the President and members of the Association of Judges and Prosecutors of the Federation of Bosnia and Herzegovina and Republika Srpska; the Minister of Justice of the Federation of Bosnia and Herzegovina, together with the judges, prosecutors and police (from both the Federation of Bosnia and Herzegovina and Republika Srpska); the President of the Bar Association of Bosnia and Herzegovina; the members of the Faculty and School of Law of Sarajevo and its students; the Dean, the members and students of the Law Faculty of the University of Banja Luka; and the Deputy High Representative, Ambassador Johnson, and Ambassador Jacques Klein, United Nations Special Representative.

269. The President of the Tribunal, Judge Claude Jorda, visited Croatia from 8 to 10 May 2000 at the invitation of Mr. Mesić, the newly elected President of the Republic. During his visit, President Jorda met with, *inter alia*, the First Vice-Prime Minister, Mr. Granić, the Minister for Foreign Affairs, Mr. Picula, and the Minister of Justice, Mr. Ivanisević. He also took part in a symposium on the Tribunal and met with several representatives of the media. During his visit, the discussions dealt with cooperation between Croatia and the Tribunal, the possibility of holding trials in Zagreb, the submission of documents to the Prosecutor, Croatia's recognition of the Tribunal's jurisdiction over operations "Storm" and "Flash", the transfer of the accused Naletilić to the

Tribunal and the declaration of the new Government to the Parliament on cooperation between Croatia and the Tribunal.

270. On 23 May 2000, President Jorda spoke to the Peace Implementation Council in connection with the Dayton Accords during the annual plenary meeting in Brussels on 23 and 24 May 2000. He declared himself satisfied with the current cooperation between States and the Tribunal but also expressed his concern over the failure of the Federal Republic of Yugoslavia to cooperate. He reaffirmed the importance of arrests and the fulfilment of the Tribunal's mission to restore the peace in the Balkans. Lastly, he referred to the current workload of the Tribunal and the need to find the resources to deal with it.

271. On 29 May 2000, the Prime Minister of Republika Srpska, Milorad Dodik, came to the Tribunal to visit the detainees and to meet with the President, the Prosecutor and the Registrar. Mr. Dodik declared himself eager to improve cooperation between Republika Srpska and the Tribunal. Several days later, on 5 June 2000, the Vice-President of Republika Srpska, Mr. Šarović, also met with the President, the Prosecutor and the Registrar after a visit to the United Nations Detention Unit.

272. On 7 June 2000, the Minister of Justice of Croatia, Mr. Stjepan Ivanisević, visited the Tribunal. During his meeting with Mr. Ivanisević, the President again expressed his satisfaction about the cooperation between the Republic of Croatia and the Tribunal and, in that respect, asserted that as soon as the prosecutor informed him "that once all pending requests for cooperation have been met, he shall be sure to inform the Security Council that Croatia has complied with all its obligations towards the Tribunal."[21]

B. Other meetings

273. Over the past year, the President, the judges, the Prosecutor and the Registrar met with several ambassadors posted to The Hague, including those of Canada, Croatia, France, Germany, Ireland, Portugal, Romania, the Russian Federation, Spain, the United Kingdom and the United States. They also met roving ambassadors representing their country in matters of international criminal law.

274. Several representatives of non-Balkan States also visited the Tribunal including the Prime Minister of Italy, Massimo D'Alema; the Minister of Justice of Morocco, Omar Azziman; the Minister of Justice of Germany, Herta Daübler-Gmelin; the Minister of Immigration of Canada, Elinor Caplan; and the President of France, Jacques Chirac.

275. During his visit to the Tribunal on 29 February 2000, the first ever by a Head of State of a permanent member of the Security Council, President Chirac met with the President, the Prosecutor, all the judges and the Registrar. In the name of France, he stated his unflagging wish to fight impunity for crimes against humanity through effective cooperation with the Tribunals for the former Yugoslavia and Rwanda and his commitment to the future International Criminal Court. President Jorda, for his part, emphasized how important it was for the Tribunal to be able to rely upon the support of all States especially as regards arrests and the production of evidence.

276. During the period under review, representatives of several international and national organizations visited the Tribunal, among them the United Nations High Commissioner for Human Rights, Mary Robinson; President Wildhaber, Vice-President Palm, Judge Thomassen and Deputy-Registrar Mahoney of the European Court of Human Rights; the President of the Supreme Court of The Netherlands, Judge Haak; and members of the Finnish Parliamentary Commission on Constitutional Law.

277. On 13 February 2000, the Secretary-General of NATO, Lord Robertson, also visited the Tribunal and spoke with the President and with Prosecutor Del Ponte, *inter alia*, about arrests of those accused still at large.

278. The issue was also on the agenda during a meeting on 26 May 2000 between the Prosecutor and the Secretary of State of the United States, Madeleine Albright.

279. On 31 May 2000, the President was invited to London to meet with the British Foreign Secretary, Robin Cook, and to discuss the report on the operation of the Tribunal.

280. Furthermore, the President, the Prosecutor and the Registrar visited United Nations Headquarters on several occasions.

281. For example, members of the Office of the Prosecutor and the Chambers represented the Tribunal at the three sessions of the Preparatory Commission for

the International Criminal Court, held at United Nations Headquarters from 29 November to 17 December 1999 and 13 to 31 March and 12 to 30 June 2000. Judge May addressed the March session and Judge Jorda gave a speech at the session in June. Participation in the sessions allowed the Tribunal officials to share with the members of the Commission the experience and the work of the Tribunal.

282. In February 2000, the President of the Tribunal visited United Nations Headquarters where he met, *inter alia*, with the President of the General Assembly, the Secretary-General of the United Nations, the Deputy Secretary-General and with members of the permanent missions of the five permanent members of the Security Council, the permanent missions of four other members of the Council (Argentina, Bangladesh, Canada and the Netherlands) as well as the permanent mission of Portugal. The President's objective was to share his initial observations on the status of the Tribunal and to announce that a forward study on its operation was being prepared.

283. From 16 to 22 June 2000, the President again visited United Nations Headquarters, this time to present the report on the operation of the Tribunal to the Security Council. On that occasion, he met with all the representatives of the permanent missions of the members of the Council.

284. Several meetings were held between members of the Tribunal and those of the International Criminal Tribunal for Rwanda. The Presidents met on several occasions. The Appeals Chamber judges also travelled to Arusha three times in order, *inter alia*, to attend hearings and the June 2000 plenary session.

285. Those meetings were designed to resolve the difficulties encountered by the Appeals Chamber relating to the filing of written submissions and the translation of documents. The plenary also discussed the possibility of proposing to the Security Council that it amend the Statutes of both Tribunals so that persons wrongly convicted might enjoy the right to compensation. In accordance with the assessments contained in the report on the operation of the Tribunal, the question arose of the creation of two additional posts for judges for the Appeals Chamber.

286. With a view to further cooperation between the two Tribunals, the judges of the Tribunals agreed to meet for a seminar organized with the assistance of the United Nations Office of Legal Affairs, to be held in London in September 2000.

VI. Regulatory, organizational and reform activities

A. Regulatory activity

1. Amendments to the Rules of Procedure and Evidence

287. Following the procedure set out in the Practice Direction relating to amendments to the Rules of Procedure and Evidence (IT/143), the Rules Committee considered the various proposals submitted to it in the latter part of 1999 and submitted a report to the twenty-first plenary. Proposals for amendments to more than 35 rules had been received from judges, the Prosecutor, the Registrar and legal support staff, together with two external submissions, one from a State and one from a non-governmental organization.

288. At the twenty-first plenary, 28 rules were amended and 3 new rules were adopted, entering into force on 7 December 1999 (set out in full in IT/161). Many of these amendments were intended to speed up trials and the pre-trial process and to minimize delays, while others were required to promote internal efficiency and linguistic consistency.

289. Following the agreement reached in principle at the twentieth plenary, amendments were made to the powers and role of the pre-trial judge and to improve pre-trial management, with a pre-trial judge now being appointed in every case within 60 days of the initial appearance of the accused (rule 65 *ter* (A)). New rules now require the defence to set out its case in more detail in advance and to raise matters relevant to its case in cross-examination whenever possible (rules 65 *ter* (F) and 90 (H)).

290. Rule 33 was amended to permit the Registrar to make representations to a Chamber with regard to issues affecting the discharge of her functions.

291. Rule 50 (amendment of indictment) was amended to clarify the process for procedural amendments to an indictment, with the entire rule being remitted to the Rules Committee for overall review in the light of a number of difficulties that had arisen.

292. Rule 62 was amended to permit the initial appearance of an accused to take place before a single judge without requiring a special order from the President, thereby reducing interruptions of ongoing trials.

293. The test for provisional release in rule 65 was revised to reflect the circumstances in which the International Tribunal found itself (long delays between trial and arrest, together with the number of detainees in custody), while continuing to protect the interests of the International Tribunal. The Prosecutor was also given the opportunity to seek a stay of any order granting provisional release, pending appeal.

294. Rule 71 was amended to provide more easily for the taking of deposition evidence by removing the requirement for "exceptional circumstances".

295. The new rule 15 *bis* permits a trial to continue for up to three days in the unavoidable and legitimate absence of a judge owing to illness or for urgent personal reasons.

296. New rule 54 *bis* provides a procedure for States to be heard in relation to requests for assistance under article 29 of the Statute and to raise in advance matters of concern, such as the impact of such an order on issues of national security.

297. Rule 71 *bis* makes formal provision for the use of videoconference links, which have been used by the International Tribunal in many trials.

298. At the request of the President, the Rules Committee also considered the changes that would be required to the Statute to permit the appointment of additional (*ad litem*) judges and submitted a report to the extraordinary plenary held in April 2000.

299. Additional proposals for amendment were considered at the twenty-second plenary held in July 2000. These included matters such as the amendment of rule 50, which had been remitted to the Rules Committee by the plenary, and consideration of a package of amendments proposed by the Registrar relating to the appointment and assignment of counsel, together with certain other matters considered to be appropriate for consideration at the time.

300. Six rules were amended in substance at the twenty-second plenary, with minor consequential amendments to two other rules (set out in full in IT/177). These amendments entered into force on 2 August 2000.

301. Rule 28 has been amended to permit the duty judge to hold an initial appearance or to rule on provisional detention during court recesses.

302. Rule 44 (with rules 45 and 46 part of a package of rules discussed at previous plenary sessions) was amended to require that counsel speak one of the two working languages of the International Tribunal, unless the Registrar specifically authorizes otherwise; to allow for appeal of any refusal of such authorization; and to provide for the appointment of an advisory panel to assist the President and the Registrar in all matters relating to defence counsel. The specific structure and areas of responsibility of the advisory panel will be set out in a directive of the Registrar.

303. Rule 45 has been restructured and now provides for counsel assigned by the International Tribunal to possess reasonable experience in criminal or international law.

304. Rule 46 now provides for the Registrar to publish and implement a Code of Professional Conduct for defence counsel.

305. Rule 50 (being a matter remitted to the Rules Committee) has been revised such that amendments to an indictment are to be made by way of an inter *partes* procedure after the initial appearance of the accused.

306. Under rule 65, a new sub-rule (I) has been adopted to address the grounds for grant of provisional release by the Appeals Chamber, to permit temporary release, for example, to attend a funeral or visit sick relatives.

2. Practice Directions

(a) Procedure for the filing of written submissions in appeal proceedings

307. In accordance with rule 19 (B) of the Rules of Procedure and Evidence of the Tribunal, after consultation with the Bureau, the Registrar, the Prosecutor and the Appeals Chamber, on 1 October 1999, the President issued a Practice Direction (IT-155) on the procedure for filing written submissions in appeal proceedings before the Tribunal. The procedure covers not only interlocutory appeals as of right but also interlocutory appeals subject to leave which is granted by a Bench of three Appeals Chamber Judges

and, lastly, applications filed as part of the procedure for appealing against a judgement.

(b) Procedure for amending the regulations issued by the Registrar

308. In accordance with rules 6 and 19 (B) of the Rules of Procedure and Evidence, in consultation with the Bureau, the Prosecutor and the Registrar, on 12 July 2000, the President issued a Practice Direction (IT-173) on the procedure for amending the regulations issued by the Registrar. These include the Directive on Assignment of Defence Counsel, the Directive on the Registry Judicial Division Court Management and Support Services, the House Rules for Detainees, the Regulations to Govern the Supervision of Visits to and Communications with Detainees, the Regulations for the Establishment of a Complaints Procedure for Detainees, the Regulations for the Establishment of a Disciplinary Procedure, the Code of Professional Conduct for Defence Counsel Appearing before the Tribunal and the Code of Ethics for Interpreters and Translators Employed by the Tribunal.

B. Organizational activity

1. Judicial Practices Working Group

309. The Judicial Practices Working Group was created by President McDonald in September 1999. Judge Jorda, who was then the presiding judge of Trial Chamber I, was appointed President of the Group, whose purpose is to gather all those involved in the trial to discuss, evaluate and, if necessary, amend the Tribunal's judicial practice. In addition to the judges, the Group consists of representatives from the Office of the Prosecutor, the Registry and defence counsel. It is the first multidisciplinary group ever established at the Tribunal.

310. In November 1999, following Judge Jorda's election to the presidency of the Tribunal, Judge Rodrigues was appointed President of the Group. During the reporting period, the Group's activities focused on two main themes: possible changes to the practices of the different Chambers, and consideration of the report of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the Tribunal (A/43/634).

311. The Group made comments which the Rules Committee took into account when proposing the amendments to the Rules as regards the pre-trial judge. Consideration continues to be given not only to an assessment of the effectiveness of this new procedure,[22] but also to a review of other ways to increase efficiency.

312. The Group also attempted to define and classify the various subjects it might take up. The subject of witness testimony stood out in particular, and was examined in detail. Discussions focused principally upon the question of judicial notice, experts and their reports, affidavits or formal statements, prior witness statements and witness depositions (rule 71 of the Rules).

313. The Group intends to continue its review of these various questions as well other subjects relating to exhibits (in particular, their presentation), concurrence of characterizations, the number of motions and how they are treated.

2. Appeals Chamber Working Group

314. The Appeals Chamber Working Group was set up by President Jorda with a view to analysing the status of the Appeals Chamber, whose workload more than doubled during the reporting period. The Group has also been mandated to evaluate the structure and operation of the Appeals Chambers taking into account the specific nature of the two Tribunals. (The Appeals Chambers Judges are the same for both Tribunals.) Lastly, the Group must find ways to resolve problems encountered by the Appeals Chambers as regards translation and transmission of documents between the two Tribunals.

315. The Group consists of the President of the Tribunal, Judge Jorda; the Deputy Registrar, Judge Mohammed Shahabuddeen; the Senior Legal Officers of the two Chambers (both Tribunals) and the President's *Chef de Cabinet*. The Group met many times between November 1999 and June 2000 and its work focused on two themes: amendments to the Regulations and structural changes.

316. In January 2000, the Group first drafted proposed amendments to the Rules of Procedure and Evidence in order to accommodate the many interlocutory appeals and their impact on the length of the trials. The proposals were reviewed by the judges of the Chambers and then submitted to the judges of the

Rwanda Tribunal meeting in plenary in Arusha. The Rwanda Tribunal judges approved them subject to a few modifications.

317. Similar proposals were submitted to the judges of the Yugoslavia Tribunal, who also approved them at their plenary session on 13 and 14 July 2000.

318. A series of negotiations between the two Tribunals on the proposals for further structural changes were conducted mainly by the President and the Deputy Registrar. These talks led to the presentation presented to the plenary of the Rwanda Tribunal on 26 June 2000 of concrete arrangements designed to deal with the problems of translation and the transmission of documents. Under those arrangements that appeal documents of the Rwanda Tribunal may now be filed at The Hague as well as in Arusha and additional resources are to be made available to judges for appeals at that Tribunal.

319. Finally, the group analysed the feasibility of the Expert Group's proposal to create two additional judges' posts in the Appeals Chambers, those posts to be held by Rwanda Tribunal judges. The proposal was adopted unanimously by the judges of both tribunals.

C. Reforms

1. Report of the Expert Group

320. On 18 December 1998, the General Assembly adopted resolution 53/212 on the Financing of the International Tribunal for the Former Yugoslavia. In paragraph 5 of the resolution, the Assembly requested the Secretary-General, with a view "to evaluating the effective operation and functioning" of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, "to conduct a review in full cooperation with the Presidents of the Tribunals ... and to report thereon to the relevant organs of the United Nations". Pursuant to that request, the Secretary-General constituted a group of five independent experts, acting in their independent capacities, with the mandate as spelled out above.

321. The Group was composed of the following experts: Mr. Jerome Ackerman (Chairman, United States of America), Justice Pedro David (Argentina), Justice Hassan Jallow (Gambia), Justice Jayachandra Reddy (India) and Mr. Patricio Ruedas (Spain).

322. The Group worked in The Hague between June and October 1999 and offices were made available to them in the Tribunal. During that period, they met with the President, each of the 11 judges who were available, the Prosecutor, the Deputy Prosecutor, 14 staff members of the investigative and prosecutorial staff, the Registrar, the Deputy Registrar and 11 members of the staff of the Registry, including the Commander of the Detention Unit.

323. The Group carried out a thorough analysis of the current status of the Tribunal.

324. On 11 November 1999, the Chairman of the Expert Group submitted his final report to the Secretary-General (A/54/634, S/2000/597).

325. Even before the report had been published, the President of the Tribunal expressed his wish that it should be fully utilized. He therefore requested the Judicial Practices Working Group, composed of representatives of all sections of the Tribunal, to review its findings.

326. On 31 March 2000, the President addressed the Tribunal's response to the Secretary-General to the 46 recommendations contained in the Expert Group report (A/54/850). The President stated that the recommendations should be fully utilized, in particular, as regards pre-trial management, the conduct of the hearings and the judicial organization of the Tribunal. He announced that many had already been implemented and that several others were about to be.

327. The three principal organs of the Tribunal signed the final document which set out their comments and observations.

328. The Chambers, the Registry and the Office of the Prosecutor considered it very important to analyse the final report and unanimously stated that its recommendations amounted to a significant step towards establishing a long-term strategy for the Tribunal.

2. Report on the operation of the Tribunal

329. The President, together with the other judges, considered that, seven years after its establishment, it was appropriate to review the activities of the Tribunal and to engage in a general examination of how best to try all the current or future detainees within a reasonable time-frame.

330. The conclusions of that review are contained in a report which was submitted to the Secretary-General on 12 May 2000 and presented to the President of the Security Council on 20 June 2000 (see A/55/382-S/2000/865). The aim of report was to find pragmatic and flexible solutions which would enable the judges to deal effectively with the considerable increase in their workload over the past few years and with the expectations of the accused, the victims and the international community.

331. In considering the report, there are five specific aspects to bear in mind: the increase in the number of indictments and arrests; the Prosecutor's intention to initiate 36 new investigations; the procedural difficulties inherent in the international prosecution of war crimes and crimes against humanity; the ever growing expectations of the international community; and the fact that the Tribunal henceforth is setting an example for the creation of the future International Criminal Court.

(a) Projections

332. The report starts with numerical estimates.

333. There are currently 13 cases on the docket of the Trial Chambers, of which 9 are at the pre-trial stage and 4 are in trial. Those cases will finish at the earliest in the second trimester of 2003. Future cases — that is, those in which at least one of the accused is still at large — should be tried by 2007.

334. The Prosecutor's projections are also included in the report. Carla Del Ponte has announced that she plans to open 36 new investigations, covering 150 suspects. If they are to be tried, this would involve at least 36 trials, which would take several years.

335. These figures do not take into account the work of the Appeals Chamber, which will inevitably increase with the growing number of cases it will have to hear each year.

336. The judges conclude that if no changes are made with regard to penal policy, rules of procedure, format or the organization of the Tribunal and all the contributory factors, especially the political ones, continue to point to an increase in the number of cases, the Tribunal will be unable to fulfil its mission before 2016. And it should be recalled that this projection does not include appeals.

(b) Proposed measures

337. The judges considered several measures which would enable them to manage their workload more efficiently and effectively. They analysed the advantages and disadvantages of each and classified them according to the extent to which they directly involved the Tribunal.

338. One measure not directly involving the Tribunal would be to hear cases elsewhere. Here, Member States, including the States of the former Yugoslavia, would be able to try an accused indicted by the Prosecutor. Although this measure might be useful for national reconciliation, it would not encourage the development of a unified international criminal justice system and would be premature. The judges also considered creating a second tribunal in the region of the Balkans. Although this would make case management more transparent to the local population, such a tribunal would be very costly to establish and could not be set up quickly. Lastly, the judges also rejected the idea of transferring part of the Tribunal's caseload to the International Criminal Court, since doing so would create many legal difficulties and would in any event be dependent upon the entry into force of the Rome Statute.

339. Turning to measures involving the Tribunal more directly, the judges considered that holding trials away from the seat of the Tribunal would bring international justice closer to the peoples concerned, but would not contribute to improved case management. With regard to trials before a single judge, it was felt that although they would significantly increase productivity, the practice might damage the Tribunal's credibility. Trials in absentia would not solve the question of the number and length of the proceedings. Lastly, it was felt that the creation of an additional Trial Chamber would not create the sufficient degree of flexibility to accommodate the judges' irregular and at times unpredictable workload, which depends, *inter alia*, on future arrests and indictments.

(c) Recommended solutions

340. The judges advocated adopting a solution which is more flexible, more audacious and probably more effective both in the medium and the long term. First, the pre-trial management would be accelerated through increased recourse to the senior legal officers, thus freeing up the judges to devote more of their time to

hearings and to the drafting of decisions and judgements. Secondly, the Tribunal's trial capacity would be increased by the creation of a pool of *ad litem* judges made available by Member States, to be called upon when needed by the Tribunal to hear specific cases. They could be part of *ad litem* Trial Chambers or be included in mixed Trial Chambers.

341. Lastly, further to the recommendations of the Expert Group, the Judges proposed the creation of two new posts for additional judges in the Appeals Chamber.

342. This plan, which would require an amendment to the Statute, should enable the Tribunal to complete its work in 2007 rather than in 2016.

VII. Conclusion

343. At the start of the reporting period, then President McDonald drew three conclusions about the Tribunal's development.

344. First, the Tribunal has exceeded the operational expectations of its founders and its procedural and substantive decisions have become the driving force for the development of international criminal law. Secondly, the Tribunal has also laid the foundations on which an international criminal justice system can be constructed by demonstrating that, even if the court responsible for it is hundreds of kilometres from where the crimes were perpetrated, international justice is still possible. Lastly, the President concluded that even if the Tribunal's contribution is understood and appreciated only in the long term, its impact on the situation in the territory of the former Yugoslavia is beginning to be felt.

345. During the period under review, the Tribunal has firmly established itself as a fully operational international criminal court and endorses the conclusions drawn from the experience acquired over the first six years of its operation. However, it should be noted that the institution has evolved in different ways.

346. Firstly, the judicial activity has reached an unprecedented level and the Tribunal now faces a new challenge. A heavier workload must be managed without affecting the quality of the proceedings and judgements while respecting the rights of the victims and the accused. In addition, important political changes can be seen and are even accelerating in the region which have produced a clear improvement in the cooperation by the States and entities of the former Yugoslavia. Improved relations between the Republic of Croatia and the Tribunal are particularly significant as is, to a lesser extent, the more positive climate in Republika Srpska. This encouraging situation is attributable to several factors, notably the increasingly solid support of the international community, which has resulted in our receiving ever more active cooperation in arrests which, over the past year, were frequent and regular.

347. This increased activity in all fields of operation, together with the penal policy announced by the Prosecutor, means that the Tribunal has reached a turning point in its history.

348. For these reasons, the past year will have been one in which awareness was marked by internal and external reflection and analysis of the Tribunal's operation. From the Expert Group's report to the results of the judges' considerations and taking into account also the efforts of the two working groups created during the reporting period, this work will have allowed us to anticipate the difficulties on the horizon and to address this turning point with full knowledge of all the facts.

349. Instead of making the situation appear more serious than it is, we should take stock of where we stand, that is, realize that problems exist which are related to the institution's vitality and not to its loss of strength. We are experiencing a type of growing pains which we must manage and not merely suffer.

350. After having set out the possible range of solutions and analysed their advantages and disadvantages, the judges unanimously favoured a flexible and pragmatic solution combining internal reforms (greater emphasis on pre-trial management through greater recourse to the Tribunal's senior legal officers) with increased capacity to hear cases (through the creation of a pool of *ad litem* judges available as necessary). The report which the Judges submitted to the Secretary-General and to the Security Council shows the high level of productivity which can be expected from the solution proposed. In concrete terms, the Tribunal's mission, at least for trials in the first instance, could be completed in 2007. However, if nothing changes in terms of penal policy, rules of procedure, format or organization of the Tribunal and

all the factors, especially the political ones, continue to point to an increase in the number of cases, the Tribunal will be unable to fulfil its mission before 2016.

351. The judges are conscious of the great demands being made once again on the community of nations. They feel nevertheless that everything thus far achieved argues for keeping faith in this unprecedented Tribunal. By establishing the Tribunal in 1993, the Security Council made a historic decision and took up one of the greatest challenges since Nürnberg: to say that crimes against humanity and genocide would not go unpunished. Careful attention by the Security Council to the proposals formulated has produced an initial result: the creation of a working group which, in the near future, will analyse and, we hope, validate the judges' conclusions. As we reach the threshold of the last year of the mandate which began in 1997, we dare to hope that the Tribunal will have the resources to take up this threefold mission: to ensure that all the accused are arrested and tried, that justice is rendered to the victims and that no atrocity of any kind is once again perpetrated in the Balkans.

Notes

[1] 18,300 in the French version.

[2] General Blaškić was acquitted of one event, the shelling of Zenica.

[3] *The Prosecutor* v. *Dario Kordić* (IT-95-14/2-AR 73.5 and IT-95-14/2-AR73.6).

[4] *The Prosecutor* v. *Simić* et al. (IT-95-9-AR73.2).

[5] *The Prosecutor* v. *Dario Kordić* (IT-95-14/2-AR 73.2 and IT-95-14/2-AR73.4).

[6] *The Prosecutor* v. *Simić et al.* (IT-95-9-AR73.2).

[7] *The Prosecutor* v. *Goran Jelisić* (IT-95-10-A).

[8] *The Prosecutor* v. *Kupreškić et al.* (IT-95-16-A).

[9] *The Prosecutor* v. *Tihomir Blaškić* (IT-95-14-A).

[10] *The Prosecutor* v. *Duško Tadić* (IT-94-1-A*bis*), "Judgement in Sentencing Appeals", 26 January 2000.

[11] *The Prosecutor* v. *Zlatko Aleksovski* (IT-95-14/1-A).

[12] *The Prosecutor* v. *Anto Furundžija* (IT-95-17/1-A).

[13] *The Prosecutor* v. *Delalić et al.* (IT-96-21-A).

[14] *The Prosecutor* v. *Duško Tadić* (IT-94-1-A *bis*).

[15] *The Prosecutor* v. *Kunarac et al.* (IT-96-23-T), three accused: Kunarac, Kovac and Vuković.

[16] *The Prosecutor* v. *Kvočka* (IT-98-30-T), five accused, Kvočka, Radić, Žigić, Kos and Prcać.

[17] *The Prosecutor* v. *Brđanin and Talić* (IT-99-36-PT), two accused: Brđanin and Talić.

[18] Statement of President Jorda to the meeting of the Peace Implementation Council for the Dayton Accords, 23 May 2000, in Brussels at the plenary meeting of the Council.

[19] Letter dated 17 May 2000 from President Jorda to the President of Croatia, Stipe Mesić further to his first visit to Croatia on 9 and 10 May 2000. The Croatian Minister of Justice, Stjepan Ivanisević visited the Tribunal on 7 June 2000.

[20] According to the Yugoslav agency *Tanjug's* report of 16 June 2000 (unofficial translation).

[21] President Jorda's letter of 17 May 2000 to the President of Croatia, Stipe Mesić.

[22] At issue was how to reconcile the concerns of the Prosecutor, who wants to be in a position to amend an indictment even after the initial appearance of the accused, with the need to enable the defence to prepare its case for trial effectively.

Annex I

International Criminal Tribunal for the Former Yugoslavia

31 public indictments
69 indictees

NIKOLIĆ (" SUŠICA CAMP")

4/11/94, *latest amendment 12/02/99*
IT-94-2 Dragan Nikolić : g., v., c.*

MEAKIĆ & OTHERS ("OMARSKA CAMP")

13/2/95, *latest amendment 2/6/98.*
IT-95-4 Zeljko Meakić : g., v., gen., c.
" **Dragoljub Prcac : g., v., c.**
" Momcilo Gruban : g., v., c.
" **Dušan Knezević** : g., v., c.
See also "Keraterm camp" (21/7/95)

TADIĆ & BOROVNICA ("PRIJEDOR")

13/2/95, *latest amendment 14/12/95.*
IT-94-1 Duško Tadić : g., v., c.
IT-94-3 Goran Borovnica : g., v., c.

SIKIRICA & OTHERS ("KERATERM CAMP")

21/7/95, *latest amendment 21/7/98.*
IT-95-8 Duško Sikirica : g., v., gen., c.
" Damir Došen : g., v., c., *latest amendment 30/8/99.*

" Dragan Fuštar : g., v., c.
" Dragan Kolundžija : g., v., c., *latest amendment 30/8/99.*
" Nenad Banović : g., v., c.
" Predrag Banović : g., v., c.
" **Dušan Knezević** : g., v., c.
See also "Omarska camp" (13/2/95)

SIMIĆ & OTHERS ("BOSANSKI ŠAMAC")

21/7/95, *latest amendment 25/03/99.*
IT-95-9 Blagoje Simić : g., c.
" Milan Simić : g., v., c.
" Miroslav Tadić, g.c.
" Simo Zarić : g., c.
" Stevan Todorović : g., v., c.

JELISIĆ & ČEŠIĆ ("BRČKO")

21/7/95, *latest amendment 19/10/98.*
IT-95-10 Goran Jelisić : v., gen., c.
" Ranko Češić : v., c.

25/7/95, **MARTIĆ ("Shelling of Zagreb")**
IT-95-11 Milan Martić : v.

25/7/95, **KARADŽIĆ & MLADIĆ ("BOSNIA AND HERZEGOVINA")**
IT-95-5 **Radovan Karadžić** : g., v., gen., c.
See also "Srebrenica" (16-11-95)
" **Ratko Mladić** : g., v., gen., c.
See also "Srebrenica" (16-11-95)

29/8/95, **RAJIĆ ("STUPNI DO")**
IT-95-12 Ivica Rajić : g., v.

MRKŠIĆ & OTHERS ("VUKOVAR")
7/11/95, *Latest amendment 2/12/97.*
IT-95-13a Mile Mrkšić: g., v., c.
" Miroslav Radić : g., v., c.
" Veselin Šljivančanin : g., v., c.

BLAŠKIĆ ("LAŠVA VALLEY")
10/11/95, *Latest amendment (corrigendum) 16/3/99.*
IT-95-14 Tihomir Blaškić : g., v., c.

10/11/95, **KORDIĆ & OTHERS("LAŠVA VALLEY")**
IT-95-14/1 Zlatko Aleksovski : g., v.
Latest amendment 30/9/98.
IT-95-14/2 Dario Kordić : g., v., c.
Mario Čerkez : g., v., c.

MARINIĆ ("LAŠVA VALLEY")
10/11/95, *Kept confidential until its unsealing on le 27/6/96.*
IT-95-15 Zoran Marinić : g., v.

KUPREŠKĆ & OTHERS ("LAŠVA VALLEY")
10/11/95, *Latest amendment 9/2/98.*
IT-95-16 Zoran Kupreškić : g., v.
Mirjan Kupreškić : g., v.
Vlatko Kupreškić : g., v.
Vladimir Šantić : g., v.
Drago Josipović : g., v.
Dragan Papić : g., v.

FURUNDŽIJA ("LAŠVA VALLEY")

10/11/95, *Kept confidential until its unsealing on 18/12/97, latest amendment 2/6/98.*
IT-95-17/1 Anto Furundzija : v.

16/11/95, **KARADŽĆ & MLADIĆ ("SREBRENICA")**
IT-95-18 **Radovan Karadžić** : v., gen., c.
Voir aussi "Kćradzić et Mladic" (25/7/95)
" **Ratko Mladić** : v., gen., c.
See also "Karadžić et Mladić" (25/7/95)
See also "Karadžić and Mladić" (25/7/95)

DELALIĆ Ć ET CONSORTS ("CELEBICI")

21/3/96, *Latest amendment 19/1/98*
IT-96-21 Žejnil Delalić : g., v.
" Zdravko Mucić : g., v.
" Hazim Delić : g., v.
" Esad Landžo : g., v.

26/6/96, **GAGOVIĆ & OTHERS ("FOČA")**

IT-96-23/2 Gojko Janković : g., v., c., *latest amendment 7/10/99*
" Janko Janjić : g., v., c., *latest amendment 7/10/99*
" Dragan Zelenović : g., v., c., *latest amendment 7/10/99*
" Radovan Stanković : g., v., c., *latest amendment 7/10/99*
IT-96-23 Radomir Kovac : c., *latest amendment 1/12/99*
" Dragoljub Kunarac : v., c., *latest amendment 1/12/99*
IT-96-23/1 Zoran Vuković : g., v., c., *latest amendment 21/2/2000*
(Kunarac, Kovac and Vuković appear joinly in the referenced cases).

KRNOJELAC ("FOČA")
17/6/97, *kept confidential until its unsealing on 15/6/98 ; latest amendment 21/7/99.*
IT-97-25 Milorad Krnojelac : g., v., c.

26/8/98, **VASILJEVIĆ ("VISEGRAD")**
kept confidential until its unsealing on 25/1/00.
IT-98-32 Mitar Vasiljević : c., v.

KRSTIĆ ("SREBRENICA")
2/11/98, *kept confidential until its unsealing on 2/12/98, latest amendment 27/10/99.*
IT-98-33 Radislav Krstić : gen., v., c.

9/11/98, **KVOČKA & OTHERS ("OMARSKA & KERATERM CAMPS")**
IT-98-30/I Miroslav Kvočka : v., c., *latest amendment 31/5/99*

" Mlado Radić : v., c., *latest amendment 31/5/99*
" Milojica Kos : v., c., *latest amendment 31/5/99*
" Zoran Zigić : v., c., *latest amendment 31/5/99*
" Dragoljub Prcać : v.. c., *latest amendment 8/3/00*
See also "Omarska camp" (13/2/95)

21/12/98, **NALETILIĆ & MARTINOVIĆ ("TUTA & ŠTELA")**
IT-98-34 Mladen Naletilić : g., v., c.
" Vinko Martinović : g., v., c.

BRĐJANIN ("KRAJINA")
14/3/99, *kept confidential until its unsealing on 6/7/99.*
IT-99-36 Radoslav Brđjanin : v., gen., c., g., *latest amendment 17/12/99*
" Momir Talić : v., gen., c., g., *latest amendment 17/12/99*

26/3/99, **GALIĆ ("SARAJEVO")**
IT-98-29 Stanislav Galić :

MILOŠEVIĆ & OTHERS (KOSOVO")
24/5/99, *kept confidential until its unsealing on 27/5/99.*
IT-99-37 Slobodan Milošević : c., v.
" Milan Milutinović : c., v.
" Nikola Šainović : c., v.
" Dragoljub Ojdanić : c., v.
" Vlajko Stojiljković : c., v.

21/03/00, **KRAJISNIK ("BOSNIA AND HERZEGOVINA")**
IT-00-39 Momcilo Krajisnik : gen., c., v., g.

KEY

g. : Grave breaches of the 1949 Geneva Conventions (Article 2 of the Statute of the Tribunal).

v. : Violations of the laws or customs of war (Article 3).

gen. : Genocide (Article 4).

c. : Crimes against humanity (Article 5)

underlined: and/or superior responsibility (Article 7(3)).

bold: indicted in two different indictmnets

The cases of the above-mentioned indictees are at different stages: 28 accused remain at large (see annex III), 39 accused or convicted persons are currently in proceedings before the Tribunal (see Annex II).

Annex II

List of persons detained at the United Nations Detention Unit: 37 in custody

Arrests(4)	Detention by international forces 11)	Voluntary surrenders (13)	Transfer by States
Duško TADIĆ Tadić case (IT-94-1-A) Date of arrest : 12/ 2/ 94 (Munich, Germany) Initial appearance: 26/ 4/ 95 Judgement : 7/ 5/ 97 Sentence : 14/ 5/ 97, 20 years imprisonment Judgement on Appeal: 15/ 7/ 99 (Appeal pending)	Anto FURUNDŽIJA Furundžija case (IT-95-17/ I-A Date of arrest by SFOR : 18/ 12/ 97 Initial appearance: 19/ 12/ 97 Judgement : 10/ 12/ 98 Sentence : 10 years imprisonment	Tihomir BLAŠKIĆ Blaškić case (IT-95-14-T) Date of voluntary surrender: 1/ 4/ 96 Initial appearance: 3/ 4/ 96	Vinko MARTINOVIĆ Naletilić and Martinović (IT-98-34-PT) Date of transfer by the Croatian authorities: 9/8/99 Initial appearance: 24/3/00
Dravko MUCIĆ Delalić & others case (IT-96-21-4) Date of arrest : 18/ 3/ 96 (Vienna, Austria) Initial appearance: 11/ 4/ 96 Judgement : 16/ 11/ 98 Sentence : 7 years imprisonment	Vlatko KUPREŠKIĆ Kupreškić & others case (IT-95-16-T) Date of arrest by SFOR : 18/ 12/ 97 Initial appearance: 16/ 1/ 98	Dario KORDIĆ Kordić and Čerkez case (IT-95-14/ 2-T) Date of voluntary surrender : 6/ 10/ 97 Initial appearance: 8/ 10/ 97	Momir TALIĆ Brđjanin and Talić case (IT-99-36-PT) Date of arrest and transfer by Austria: 25/8/99 Initial appearance: 31/ 8/99
Hazim DELIĆ Delalić & others case (IT-96-21-A) Date of arrest : 2/ 5/ 96 in Bosnia and Herzegovina Initial appearance: 18/ 6/ 96 Judgement : 16/ 11/ 98 Sentence : 20 years imprisonment	Goran JELISIĆ Jelisić (IT-95-10-T) Date of arrest by SFOR : 22/ 1/ 98 (Bijeljina, Bosnia and Herzegovina) Initial appearance: 26/ 1/ 98	Mario ČERKEZ Kordić and Čerkez case (IT-95-14/ 2-T) Date of voluntary surrender : 6/ 10/ 97 Initial appearance: 8/ 10/ 97	Mladen NALETILIĆ Naletilić and Martinović case (IT-98-34-PT) Date of transfer by the Croatian authorities: 21/3/00 Initial appearance: 24/3/00

Esad LANDŽO Delalić & others case (IT-96-21-A) Date of arrest : 2/ 5/ 96 in Bosnia and Herzegovina Initial appearance: 18/ 6/ 96 Judgement : 16/ 11/ 98 Sentence : 15 years imprisonment	Miroslav KVOČA Kvočka & others case (IT-98-30-PT) Date of arrest by SFOR : 8/ 4/ 98 Initial appearance 14/ 4/ 98	Zoran KUPREŠKIC Kupreškić & others case (IT-95-16-T) Date of voluntary surrender : 6/ 10/ 97 Initial appearance: 8/ 10/ 97	
	Mladen RADIĆ Kvočka & others case (IT-98-30-PT) Date of arrest by SFOR : 8/ 4/ 98 Initial appearance: 14/ 4/ 98	Mirjan KUPREŠKIC Kupreškić & others case (IT-95-16-T) Date of voluntary surrender : 6/ 10/ 97 Initial appearance: 8/ 10/ 97	
	Milojica KOS Kvocka & others case (IT-98-30-PT) Date of arrest by SFOR : 28/ 5/ 98 Initial appearance: 2/ 6/ 98	Vladimir ŠANTIC Kupreškić & others case (IT-95-16-T) Date of voluntary surrender : 6/ 10/ 97 Initial appearance: 8/ 10/ 97	
	Milorad KRNOJELAC Krnojelac (IT-97-25-PT) Date of arrest by SFOR : 15/ 6/ 98 Initial appearance: 18/ 6/ 98	Drago JOSIPOVIĆ Kupreškić & others case (IT-95-16-T) Date of voluntary surrender : 6/ 10/ 97 Initial appearance: 8/ 10/ 97	
	Stevan TODOROVIĆ Simić & others case (IT-95-9-PT) Date of arrest by SFOR : 27/ 9/ 98 Initial appearance: 30/ 9/ 98	Dragan PAPIĆ Kupreškić & others case (IT-95-16-T) Date of voluntary surrender : 6/ 10/ 97 Initial appearance: 8/ 10/ 97	

Radislav KRSTIĆ Krstić (IT-98-33-PT) Date of arrest by SFOR : 2/ 12/ 98 Initial appearance: 7/ 12/ 98	Miroslav TADIĆ Simić & others case (IT-95-9-PT) Date of voluntary surrender : 14/ 2/ 98 Initial appearance: 17/ 2/ 98	
Dragan KOLUNDŽIJA Sikirica & others case (IT-95-8-PT) Date of arrest by SFOR : 7/ 6/ 99 Initial appearance: 14/ 6/ 99	Simo ZARIĆ Simić & others case (IT-95-9-PT) Date of voluntary surrender : 24/ 2/ 98 Initial appearance: 26/ 2/ 98	
Radoslav BRDANIN Brdanin (IT-99-36-PT) Date of arrest by SFOR : 6/ 7/ 99 Initial appearance: 12/ 7/ 99	Dragoljub KUNARAC Kunarac & others case (IT-96-23-T and IT-96-23/1-T) Date of voluntary surrender : 4/ 3/ 98 Initial appearance: 9/ 3/ 98	
Radomir KOVAC Kunarac & others case (IT-96-23-T and IT-96-23/1) Date of arrest by SFOR : 2/ 8/ 99 Initial appearance: 4/8/99		
Damir DOSEN Sikirica & others case (IT-95-8-PT) Date of arrest by SFOR : 25/10/99 Initial appearance: 8/11/9		
Stanislav GALIĆ Galić (IT-98-29-PT) Date of arrest by SFOR : 21/12/99 Initial appearance: 29/12/99	Milan SIMIĆ Simić & others case (IT-95-9-PT) Date of voluntary surrender : 14/ 2/ 98 Initial appearance: 17/ 2/ 98	

		Koran ŽIGIĆ Kvocka & others case (IT-98-30-PT) Date of voluntary surrender : 16/ 4/ 98 Initial appearance: 20/ 4/ 98	
	Zoran VUKOVIĆ Kunarac & others case (IT-96-23-T and IT-96-23/1) Date of arrest by SFOR : 23/12/99 Initial appearance: 29/12/99		
	Mitar VASILJEVIĆ Vasiljević (IT-98-32-PT) Date of arrest by SFOR : 25/1/00 Initial appearance: 28/1/00		
	Dragoljub PRCAĆ Kvočka & others case (IT-98-30/I-T) Date of arrest by SFOR : 5/3/00 Initial appearance: 10/3/00		
	Momcilo KRAJISNIK Krajisnik (IT-00-39-PT) Date of arrest by SFOR : 3/4/00 Initial appearance: 7/4/00		
	Dragan NIKOLIĆ Nikolić (IT-94-2) Date of arrest by SFOR : 22/4/00 Initial appearance: 28/4/00		

	Dusko SIKIRICA Sikirica & others case Date of arrest by SFOR : 25/06/00 in Bosnia and Herzegovina Initial appearance: 7/07/00		

Note :

Žejnil Delalić Delalić & others case (IT-96-21-A) was released from the United Nations Detention Unit during the appeal proceedings. The accused Duško Tadić, Tadić case (IT-94-1) and Zlatko Aleksovski, Aleksovski case (IT-95-14/2- A), are waiting transfer to the State where they are to serve their sentences.

Annex III

Individuals indicted publicly by the International Tribunal who remain at large

Name of indictee	Date of indictment	Believed residing in
Zeljko Meakić	13/2/95	BH (Republika Srpska)
Momcilo Gruban	13/2/95	BH (Republika Srpska)
Dušan Knezević	13/2/95, 21/7/95	BH (Republika Srpska)
Goran Borovnica	13/2/95	BH (Republika Srpska)
Dragan Fuštar	21/7/95	BH (Republika Srpska)
Nenad Banović	21/7/95	BH (Republika Srpska)
Predag Banović	21/7/95	BH (Republika Srpska)
Blagoje Simić	21/7/95	BH (Republika Srpska)/FRY
Ranko Cešić	21/7/95	BH (Republika Srpska)/FRY
Milan Martić	25/7/95	BH (Republika Srpska)
Radovan KaradžIć	25/7/95, 16/11/95	BH (Republika Srpska)
Ratko Mladić	25/7/95, 16/11/95	BH (Republika Srpska)/FRY
Ivica Rajić	29/8/95	unknown
Mile Mrkšić	7/11/95	FRY
Miroslav Radić	7/11/95	FRY
Veselin Šljivančanin	7/11/95	FRY
Zoran Marinić	10/11/95	BH (Republika Srpska)

Gojko Janković	26/6/96	BH (Republika Srpska, Foča)
Janko Janjić	26/6/96	BH (Republika Srpska, Foča)
Dragan Zelenović	26/6/96	BH (Republika Srpska, Foca)
Radovan Stanković	26/6/96	BH (Republika Srpska)
Slobodan Milošević	24/5/99	FRY
Milan Milutinović	24/5/99	FRY
Nikola Šainović	24/5/99	FRY
Dragoljub Ojdanić	24/5/99	FRY
Vlajko Stojiljković	24/5/99	FRY

BH : Bosnia and Herzegovina.
FRY : Federal Republic of Yugoslavia (Serbia and Montenegro).